



## **1. Order**

The purchase order terms and conditions set forth herein and on the purchase order to which these terms are attached, or are incorporated by reference (together with any specifications and other documents referred to herein or on the purchase order, collectively, this "Order"), are between the buyer identified in the purchase order ("Buyer"), and the seller identified in the purchase order ("Seller"). Buyer and Seller may be referred to below as a "Party" or the "Parties". This Order applies exclusively vis-a-vis entrepreneurs pursuant to section 14 of the German Civil Code (hereinafter referred to as "**BGB**"), legal entities under public law or special funds under public law. This Order establishes the rights, obligations, and remedies of Buyer and Seller that apply to an Order issued by Buyer for the purchase of Seller's products and ancillary services ("Products"). This Order shall not constitute an acceptance by Buyer of any offer to sell, quotation or other proposal from Seller, even if referred to in this Order. These purchase order terms and conditions apply to this Order to the exclusion of all other terms and conditions. No additional or different terms or conditions, whether contained in Seller's acknowledgement, invoice, or in any other document or communication pertaining to this Order, will be binding on the Parties unless such additional or different terms are accepted in writing by an authorized representative of Buyer. This Order shall be irrevocably accepted by Seller upon the earlier of: (a) Seller's issuing any acceptance or acknowledgement of this Order; or (b) shipment of any part of the Products or other commencement of performance by Seller.

In these terms and conditions: (a) clause headings are for convenience and shall not be given effect in interpretation of this Order. (b) the term "including" shall mean and be construed as "including, but not limited to" or "including, without limitation", unless expressly stated to the contrary; (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular, and a reference to one gender shall include a reference to the other genders; (d) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time; and (e) reference to "writing" or "written" includes fax and email.

## **2. Price**

The price for Products shall be the price set forth in this Order and shall not be subject to change. Prices are payable in the currency stated in this Order and are inclusive of all delivery charges, handling, export and/or import duties, and sales, use, value added, excise or similar taxes. If any of the foregoing taxes and fees are levied against Buyer, Seller shall reimburse Buyer for those taxes and fees. Seller warrants that the pricing for Products shall not exceed Seller's offer to any third party for similar quantities of Products (or similar products). Seller shall promptly inform Buyer of any lower pricing levels for same or comparable Products, and the Parties shall promptly make the appropriate price adjustment.

## **3. Payment Terms**

Amounts owed for Products are due thirty (30) days after Buyer's receipt of an accurate invoice for Products, each such invoice to be issued on completion of delivery of the Products that are the subject of this Order and to contain such information as Buyer may notify in writing to Seller at any time, but including as a minimum the Order number. If Buyer pays for Products within fourteen (14) days of Buyer's receipt of an accurate invoice for Products, Buyer may take a two percent (2%) reduction on the amount owed. Buyer may deduct any amount owed by Seller to Buyer or Buyer's affiliates as a setoff against any amount due to Seller. If Buyer in good faith disputes any invoice, Buyer may withhold payment of the disputed invoice until resolved by mutual agreement between the Parties. Invoices shall be in English.

If Buyer fails to make any payment due to Seller by the due date for payment Seller may charge interest on the overdue amount at the statutory default interest rate. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment.



#### **4. Title; Delivery**

Time for delivery is of the essence of this Order. For the purposes of this clause only, Buyer may include Buyer's customer. Seller shall deliver the Products on the date set forth in Buyer's Order. Buyer may reject Products delivered prior to the date set forth in the Order and Products that fail to meet the warranties in this agreement. If Seller believes that delivery of the Products will be delayed, Seller shall immediately inform Buyer of the anticipated delay, indicate the cause of delay, and use its best efforts to cure the anticipated delay. Unless this Order does not set forth the date on which delivery must be made at the latest, Seller shall be in default at the expiry of such date without a reminder being required. If Seller does not deliver Products in accordance with the delivery date on the Order, Buyer shall be entitled to its statutory claims and rights. In addition, Buyer shall be entitled to claim liquidated damages caused by default in the amount of 0.25% of the net Order price of the Products delivered late for each calendar day delivery is not made in accordance with the Order up to 5% of the total net price of the Order. Buyer reserves the right to prove that a higher loss has been incurred. Seller may prove that no damage or only considerably less damage has been incurred.

Seller shall adequately package all Products to prevent loss or damage during transit and shall comply with any packaging requirements provided by Buyer. Seller shall include a packing list with each delivery of Products that contains at least the following items:

- The Order number;
- Seller's part number;
- Buyer's part number;
- Quantity shipped; and
- Date of shipment.

Unless otherwise agreed, Products must be shipped DDP Buyer's facility named in Buyer's Order (Incoterms 2010). Seller will bear all risk of loss, damage, or destruction to the Products, in whole or in part, occurring before delivery to Buyer at the designated delivery location. Title to Products will pass to Buyer upon delivery. Seller shall not retain any security interest in Products after the passage of title, and shall deliver the Products free of all liens and encumbrances.

Seller shall not deliver the Products the subject of this Order by instalments unless expressly agreed in writing by Buyer.

Transfer of title to the goods shall take place unconditionally and regardless of payment of the purchase price. Where in any individual case Buyer accepts Seller's offer being subject to payment of the purchase price, such reservation of title of Seller expires at the latest with payment of the purchase price for the delivered goods. Buyer is entitled to resell the goods within the ordinary course of business even prior to payment of the purchase price against advance assignment of the receivables resulting therefrom (precautionary applicability of a simple and - limited to the resale - prolonged retention of title). All further types of retention of title, in particular the extended and the forwarded retention of title and the prolonged retention of title applied to further processing are excluded.

#### **5. Inspection**

The Products and Seller must meet the requirements set out in an applicable Order. Buyer may cancel this Order if Products or Seller fail to comply with the Order requirements provided that the statutory requirements for the cancellation of the Order are met.

Buyer may inspect Products and components of Products at any time prior to delivery in order to assess Seller's work quality and/or compliance with this Order. Upon notice by Buyer, Seller will allow reasonable access to its facilities and assistance to Buyer, its customers, or representatives in order to inspect goods, materials and services related to the Products, including, raw materials, components, assemblies, work in process, tools and end products at all places, including sites where the Products are made, located, or the services are performed, whether at Seller's premises or elsewhere. Seller shall inspect the Products



prior to dispatch to ensure the Products meet all requirements of the Order and these terms and conditions.

If inspection takes place prior to delivery, Buyer may, subject to additional statutory requirements, cancel the Order in whole or in part in relation to Products or components of Products which will obviously fail to comply with material requirements of the Order and these terms and conditions. If Buyer cancels the Order prior to delivery, substitute deliveries are subject to subsequent Orders placed by Buyer. Subject to the statutory provisions, Buyer reserves the right to claim further rights and remedies. Buyer's, Buyer's representative's, and Buyer's customer's inspection of the Products and components of Products prior to delivery, or any of their approval of drawings, designs, or other documents, will not limit Seller's obligation to strictly comply with the requirements of the Order and these terms and conditions.

Upon delivery, the statutory provisions (Sections 377, 381 of the German Commercial Code) apply to the commercial obligation to inspect and to the requirement to give notice of defects, subject to the following: Buyer's duty to inspect shall be limited to defects that become obvious through external examination during the incoming goods inspection including inspection of the delivery documents as well as during Buyer's quality control using sampling. Apart from the foregoing, it shall depend on the circumstances of the individual case to what extent an examination is reasonable within the proper course of business. Buyer shall notify Seller of any noticeable defects within fourteen (14) calendar days after the passing of the risk. Buyer shall notify Seller of any defects that were not noticeable at that time, but were detected later, within a period of 14 calendar days following their discovery.

## **6. Warranty**

Seller represents and warrants that:

- (a) it has full rights and authority to enter into and perform according to this Order and its performance will not violate any agreement or obligation between it and any third party;
- (b) Products will be free from liens, security interests, or other encumbrances caused by or on behalf of Seller;
- (c) Products will be of merchantable or satisfactory quality and fit for the purpose for which they are purchased;
- (d) Products will strictly comply with Buyer's specifications for the Products and all specifications and representations included in drawings, designs, prototypes, samples, and Seller's catalogs, brochures, and other marketing materials;
- (e) Products upon transfer of risk will be free from defects in material, workmanship, and design;
- (f) Products and their use by Buyer will not infringe any third party's intellectual or industrial property rights within the United States, the European Economic Area and Switzerland and in any other countries in which the Seller has its goods manufactured;
- (g) Products will not require export licenses for Buyer to export or re-export the Products or any technology or data provided with the Products unless specifically stated;
- (h) Products shall meet latest industry standards applicable for the Products and shall comply with all applicable statutory and regulatory requirements; and
- (i) all information Seller provides Buyer pursuant to this Order will be complete and accurate.

If Products fail to comply with the warranties in this clause 6, without prejudice to Buyer's other rights and remedies, Buyer may claim its statutory rights without limitation, unless provided for differently in the following. In particular, seller shall, at Buyer's option, without undue delay repair, replace, or, subject to additional statutory requirements (in case of failure of subsequent fulfilment), refund the purchase price of the affected Products, or otherwise rectify the failure as requested by Buyer, and Seller shall be liable for all reasonably associated costs and/or losses incurred by Buyer. Buyer may purchase substitute goods and services in lieu of requiring Seller to repair or replace the affected Products, and Seller shall indemnify Buyer on demand for any additional costs and/or losses incurred by Buyer in doing so.



The limitation period for warranty claims shall be five years in relation to any construction work and for any products which in their customary use are used in connection with a construction and which have caused a defect thereto; for all other products the limitation period shall be 36 months.

Different from Section 442, para. 1, 2<sup>nd</sup> sentence BGB (German Civil Code), Buyer shall be entitled to warranty claims without limitation, even if the defect remained unknown at the time of contract conclusion due to gross negligence. Moreover, Buyers' acceptance of presented samples or patterns may not be deemed as to constitute a waiver of warranty claims.

At Buyer's request, subsequent fulfilment shall also include removal of the defective goods and reinstallation of the repaired goods or goods delivered as replacements, provided that the goods have been incorporated into another item or attached to another item in accordance with their intended purpose. Buyer's claim for reimbursement of expenses shall not only apply in cases of installation and attachment to another item, but also in other cases of foreseeable modifications of the goods. The claim for reimbursement of expenses is only excluded in the event of positive knowledge of the defect during installation or attachment.

Costs incurred in connection with the examination and subsequent fulfilment (including possible disassembly and reassembly costs as well as cost of an expert to determine the cause) shall be borne by Seller. If one type of subsequent fulfilment is impossible or can be refused because of the disproportionate costs, Seller cannot refuse the other type of subsequent fulfilment because of disproportionate costs. However, if the costs of the other type of subsequent fulfilment are disproportionate, Seller may limit the reimbursement of expenses to an appropriate amount. Buyer may demand advance payment from Seller for expenses incurred by Buyer in the course of subsequent fulfilment which are to be reimbursed by Seller. Buyer's liability in case of an unjustified demand to remedy defects remains unaffected; in such case Buyer may only be held liable if Buyer recognised or had been grossly negligent in failing to recognise that there was no defect.

Buyer is entitled to the legally determined recourse claims within a supply chain (seller recourse according to Sections 445a, 445b BGB) in addition to the claims for defects without limitation. Claims by Buyer for supplier recourse shall also apply if the defective goods have been further processed by Buyer or another company, e.g. by installation in another product. Buyer will notify Seller before recognizing or fulfilling a claim for defects asserted by its customer and will request from Seller a written statement with a brief description of the facts. If Seller does not respond to this within a reasonable period or does not bring about an amicable solution, the claim for defects and/or reimbursement of expenses actually granted by Buyer shall be deemed as owed to its customer; in this case, Seller shall be responsible for providing evidence to the contrary.

Buyer may initiate and implement a recall of Products, or take any other action in its reasonable discretion, if recall or such other action is required by applicable law or any regulatory authority, or in Buyer's reasonable discretion, it determines that a recall or such other action is warranted based on the fact that the Products create a potential safety hazard or breach of applicable law or regulation. Seller shall pay for all costs arising out of or related to any such recall or other action unless such recall or other action is due to Buyer's own default.

## **7. Compliance**

Seller shall comply with all applicable laws, rules, orders, treaties, and regulations related to the production, manufacture, installation, sale, use, import, and export of all Products, whether local, state, federal or foreign. In addition, Seller shall comply at all times with the United States Foreign Corrupt Practices Act ("FCPA") laws and regulations, the UK Bribery Act, and other applicable anti-corruption laws and regulations.

Seller shall comply with all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in Germany including the Federal Data Protection Act



(*Bundesdatenschutzgesetz*) or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy.

Seller has and shall maintain all licenses, permits, consents, authorizations or other approvals required by applicable authorities related to the production, manufacture, installation, sale, use, import, and export of all Products, whether local, state, federal or foreign. Seller shall comply with all export and import laws of all countries involved in the delivery and sale of Products under this Order. Seller assumes all responsibility for shipments of Products requiring any government import clearance.

Seller further agrees to comply with Buyer's Code of Business Conduct and Ethics to be provided to Seller by Buyer. Seller may submit reports or questions regarding violations of law, policy or the Code of Business Conduct and Ethics through either a secure website ([www.jeld-wen.ethicspoint.com](http://www.jeld-wen.ethicspoint.com)) or by telephone at +1 855-244-4794.

### **8. Intellectual Property Ownership**

Seller owns or is the authorized licensee of all intellectual property rights related to the Products to the extent the Products have not been modified, customized, or designed for Buyer.

If and to the extent Products have been or will be modified, customized, or designed for Buyer, Seller hereby agrees to irrevocably assign and transfer to Buyer and does hereby assign and transfer to Buyer all of Seller's worldwide right, title, and interest in and to the Works for Hire (defined below) including all associated intellectual property rights. For purposes of this Order, "Works for Hire" include all rights in ideas, inventions, works of authorship, strategies, plans and data created in or resulting from Seller's performance under this Order, including all patent rights, copyrights, rights in proprietary information, database rights, trademark rights and other intellectual property rights. All Works for Hire shall at all times be and remain the sole and exclusive property of Buyer. To the extent that any intellectual property rights held by Seller cannot be assigned by Seller to Buyer, Seller hereby grants to Buyer an exclusive (even as to Seller), perpetual, royalty-free, fully paid, irrevocable, freely transferrable, freely sublicensable (through multiple tiers of sublicensees), worldwide right and license to use, modify, reproduce, copy, publish, distribute, make, have made, export, import, sell, make derivative works from, and otherwise directly and indirectly exploit and commercialize any and all such rights in relation to the Works for Hire, as Buyer deems fit in its sole and absolute discretion. Buyer will have the sole right to determine the treatment of any Works for Hire, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name, or to follow any other procedure that Buyer deems appropriate. Buyer hereby grants a non-exclusive, non-assignable license, which is revocable with or without cause at any time, to Seller to use any information, drawings, specifications, computer software, know-how and other data furnished or paid for by Buyer hereunder for the sole purpose of performing this Order for Buyer. Buyer may require Seller to use and label Products with Buyer's or its affiliates' trademarks, trade names, logos or other information ("Company Information"). Company Information is the sole property of Buyer or its affiliates, and Seller shall use Company Information strictly within the method and scope approved by Buyer.

Each Party hereby acknowledges and agrees that trade names and trademarks of the other Party, whether registered or unregistered, are the exclusive property of such other Party. Nothing herein shall be construed as granting any licence to Seller to use Buyer's trademarks. No such licence shall be valid unless provided in writing with specificity and signed by both Parties, and unless Seller agrees to comply with Buyer's trademark quality usage and control provisions provided by Buyer. In any case, any and all use of Buyer's trademarks shall inure to the benefit of Buyer, and Buyer may revoke such license at any time.

### **9. Indemnification**

To the extent that the Seller or his supplier is responsible for a supplied defective Product, he shall be obligated to indemnify Buyer and its affiliates, employees, representatives and agents harmless



("Indemnified Parties") from damage claims asserted by third parties for personal injury and /or material loss upon first request insofar as the cause lies within his domain and organizational area, and he is himself liable vis-à-vis such third parties. As part of his liability for claims within the meaning of the above, the Seller shall also be obligated to refund any expenses pursuant to Sections 683, 670 BGB (German Civil Code) or pursuant to Sections 830, 840, 426 BGB (German Civil Code) that result from or in connection with a recall campaign or other corrective measures.

#### **10. Intellectual Property Indemnification**

Seller shall, at its sole expense, defend, indemnify and hold harmless Buyer and any Indemnified Parties against any and all losses arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of the Products infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Seller enter into any settlement of a claim made against Buyer without Buyer's or Indemnified Parties' prior written consent.

#### **11. Insurance**

Seller undertakes to take out and maintain sufficient liability insurance, including product liability insurance, at his own expense with a minimum cover in the blanket sum of EUR 5,000,000 per case of personal injury/property damage, and agrees to submit the insurance certificates to Buyer for inspection upon first request.

#### **12. Order Change**

Specifications for Products may be changed only by written agreement between the Parties. If any changes cause an increase or decrease in the cost or schedule of any work under this Order, an equitable adjustment shall be made in writing to the Order price and/or delivery schedule as applicable.

#### **13. Special Tooling; Ancillary Services**

Buyer may provide patterns, dies, fixtures, molds, jigs or other tools or directly or indirectly pay for tools for use in making Products at Seller's facilities ("Special Tooling"). Unless approved in writing by Buyer, Seller shall not remove or relocate any Special Tooling from Seller's facilities, make any changes to Special Tooling, or reverse engineer any Special Tooling. Seller shall use all Special Tooling solely for manufacturing Products as specified by Buyer in writing. Special Tooling shall remain Buyer's property, be segregated from Seller's property, and be individually marked as Buyer's property. Seller shall maintain Special Tooling in good condition and replace it at Seller's cost if lost, damaged, destroyed, or otherwise rendered unfit for use. Upon Buyer's request, Seller shall transfer possession of the Special Tooling to Buyer free and clear of liens and encumbrances and at the time and place designated by Buyer.

If Seller provides any ancillary services ("Services") to the sale of the Products including without limitation, Product installation, repair, or maintenance, Seller represents and warrants that the Services will be performed (a) in compliance with all applicable national, state, provincial, or local laws, statutes, rules, regulations or ordinances; and (b) in a good and workmanlike manner by qualified personnel possessing the necessary professional, technical or other background and training. Buyer will not be obligated to pay for Services that Buyer either: (1) determines to be unsatisfactorily performed; or (2) has not expressly agreed to pay for. Seller bears all expenses of providing Services except as may be assumed by Buyer in writing. Personnel assigned to perform Services are independent contractors and will not be regarded as employees or agents of Buyer.

#### **14. Confidentiality**

Any information, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" that Buyer conveys to Seller, including but not limited to, product designs, customer information, business processes, trade secrets, business plans, forecasts, and financial information, considered non-public, confidential or proprietary by Buyer is **confidential information**. Seller shall use the confidential information solely for the purpose of performing the Order and may not disclose or copy confidential



information unless authorized by Buyer in writing. Seller may disclose confidential information to its employees who (1) have a bona-fide need to know the information to perform Seller's duties under this agreement, and (2) are bound by a duty of confidentiality to Seller greater than or equal to Seller's duty of confidentiality under this agreement. Seller shall, at Buyer's option, return or destroy confidential information at the Buyer's request or at the termination of this agreement, whichever occurs first. Seller shall be responsible for any breach of these obligations by any party to whom it discloses Buyer's confidential information. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.

#### **15. Changes**

Seller shall notify Buyer in writing in advance of any and all: (a) changes to the Products, their specifications and/or composition; (b) process changes; (c) plant and/or equipment/tooling changes or moves; (d) transfer of any work hereunder to another site; and/or (e) sub-supplier changes, and no such change shall occur until Buyer has approved such change in writing. Seller shall be responsible for obtaining, completing and submitting proper documentation regarding any and all changes, including complying with any written change procedures issued by Buyer.

#### **16. Non-exclusivity**

Buyer may purchase Products and products similar to or competitive with Products from any person or entity. Seller may sell Products and products similar to or competitive with Products to any person or entity.

#### **17. Publicity**

Without the prior written consent of Buyer and unless otherwise required by law, Seller shall not make public or otherwise disclose to any person or entity that a business relationship exists between Buyer and Seller.

#### **18. Law/Dispute Resolution**

This Order and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Germany. The Parties expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods.

If Seller and Buyer have a dispute, the Parties agree to submit any such dispute shall be finally settled under the Rules of Arbitration and Conciliation of the ICC (the "ICC Rules") by one or three arbitrators appointed in accordance with such ICC Rules under the exclusion of the recourse to the ordinary courts. The place for arbitration shall be London, England, and proceedings shall be conducted in English. The award shall be final and binding on both Buyer and Seller, and the Parties hereby waive the right of appeal to any court for amendment or modification of the arbitrators' award.

Buyer may choose to alternatively file a lawsuit at the Seller's general place of jurisdiction. In such case the plea that arbitration takes precedence is hereby excluded.

#### **19. Assignment, Subcontracting and Change of Control**

Seller may not assign, delegate, subcontract or transfer (including by change of ownership or control by operation of law or otherwise) this Order or any of its rights or obligations hereunder, including payment, without Buyer's prior written consent. Should Buyer grant consent to Seller's assignment, Seller shall ensure that such assignee shall be bound by the terms and conditions of this Order. In addition, Seller shall obtain for Buyer, unless advised to the contrary in writing, written acknowledgement by such assignee, subcontractor and/or supplier to Seller of its commitment to act in a manner consistent with Buyer's integrity policies, and to submit to, from time to time, on-site inspections or audits by Buyer or Buyer's third-party designee as requested by Buyer. Subject to the foregoing, this Order shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns.



## **20. Language**

The Parties have expressly required that these terms and conditions be prepared in the English language and if they are translated into any other language, the English language version shall prevail. Any notice given under or in connection with this Order shall be in the English language. All other documents provided under or in connection with this Order shall be in the English language, or accompanied by a certified English translation. If such document is translated into any other language, the English language version shall prevail.

## **21. Third Parties**

Clause 9 is entered into for the benefit of each Indemnified Party, each of which may enforce it as named as a Party hereto. The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Order are not subject to the consent of any other person, including any Indemnified Party.

## **22. Relationship between the Parties.**

The relationship between Buyer and Seller is solely that of independent contractors and nothing in this Order or otherwise shall be construed or deemed to create any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

## **23. Entire Agreement**

This Order, with documents as are expressly incorporated by reference, is intended as a complete, exclusive and final expression of the Parties' agreement with respect to the subject matter herein and supersedes any prior or contemporaneous agreements, whether written or oral, between the Parties. No course of prior dealings and no usage of the trade shall be relevant to determine the meaning of this Order even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. No claim or right arising out of a breach of this Order can be discharged in whole or in part by a waiver or renunciation unless supported by consideration and made in writing signed by the aggrieved party. Either party's failure to enforce any provision hereof shall not be construed to be a waiver of such provision or the right of such party thereafter to enforce each and every such provision. Buyer's rights and remedies in this Order are in addition to any other rights and remedies provided by Law, contract or equity, and Buyer may exercise all such rights and remedies singularly, alternatively, successively or concurrently. Section headings are for convenience and shall not be given effect in interpretation of this Order. The term "including" shall mean and be construed as "including, but not limited to" or "including, without limitation", unless expressly stated to the contrary. The invalidity, in whole or in part, of any section or paragraph of this Order shall not affect the remainder of such section or paragraph or any other section or paragraph, which shall continue in full force and effect. Further, the Parties agree to give any such section or paragraph deemed invalid, in whole or in part, a lawful interpretation that most closely reflects the original intention of Buyer and Seller. All provisions or obligations contained in this Order, which by their nature or effect are required or intended to be observed, kept or performed after termination or expiration of this Order shall survive and remain binding upon and for the benefit of the Parties, their successors (including without limitation successors by merger) and permitted assigns.