

## **HALTERMANN CARLESS US INC. TERMS AND CONDITIONS OF SALE**

**(Effective as of November 13, 2020)**

**I. Offer and Contract.** This writing constitutes an offer by HALTERMANN CARLESS US INC. (“Seller”) to sell the product(s) and/or services described herein (the “Products”) in accordance with these terms and conditions (“T&Cs”), as may be amended from time to time by Seller. It is not an acceptance of any offer made by buyer (“Buyer”). Acceptance by Seller of Buyer’s order is expressly made conditioned on assent to these T&Cs, either by written acknowledgment or by conduct of Buyer that recognizes the existence of a contract (“Contract”) with respect to the Products described on Seller’s written acknowledgement. No additional or different terms of conditions will be binding upon Seller unless specifically agreed to in writing; failure of Seller to object to provisions contained in any purchase order or other communication from a Buyer shall not be construed as a waiver of these T&Cs nor an acceptance of any of such provisions. These T&Cs supersede all prior written and oral statements between Seller and Buyer, including prior representations, statements, conditions, warranties or Buyer orders. Unless otherwise specified on the face hereof, this offer is subject to written acceptance of Buyer’s order by Seller at its principal place of business in Troy, Michigan, within 30 days. These T&Cs also serve as notice of Seller’s objection to and rejection of any terms and conditions of purchase or sale included in Buyer’s order or other writing that are different from or additional to these T&Cs. Article headings herein are for convenience only and are not to be considered in interpreting any of the provisions herein.

**II. Delivery and Risk of Loss and Licenses.** **1.** Delivery of Products to Buyer’s principal place of business or to any other shipping point, if so agreed to by the parties in writing, shall constitute delivery to Buyer (“Delivery”), and regardless of shipping terms or freight payment, all risk of loss or damage in transit shall upon Delivery, shift to Buyer. **2.** Buyer shall provide to Seller written, detailed shipping instructions within a reasonable time prior Delivery. Buyer will be responsible for any increased costs or delays in Delivery resulting from Buyer’s failure to supply such instructions in a timely manner. Buyer may not withhold payment in the event of delay caused by Buyer. **3.** Delivery dates specified are approximate and are subject to revision at any time. Seller will use its

commercially reasonable efforts to meet the approximate delivery date(s) provided that Buyer supplies all necessary information, but Seller shall not be held responsible for failure to do so, and shall not be liable for any damage or loss of whatever kind arising directly or indirectly out of any delay in such delivery. If Buyer is responsible for any shipment delay, Seller's written notification to Buyer that Products ordered hereunder are ready for shipping shall constitute Delivery to Buyer, and all further risk of loss or damage as well as all costs for handling, transportation and storage shall be borne by Buyer. **4.** Seller shall not be liable for any damages as a result of any delay or failure to deliver due to any cause beyond Seller's reasonable control, including without limitation, any act of God, act or failure to act of Buyer, embargo or other governmental act, regulation or request, fire, accident, strike, slowdown, war, riot, act of terrorism, weather, delay in transportation or inability to obtain necessary labor, materials or manufacturing facilities. It is Buyer's sole responsibility to pay for and to obtain any governmental or other licenses, certificates or documentation as may be required.

**III. Suspension and Cancellation.** **1.** If Buyer shall omit delivery instructions or instructions concerning work commencement or shall fail to accept Delivery or allow work to be done or shall fail to make any payment when it becomes due or shall commit any other breach of contract, and if Buyer shall fail to remedy the same within 7 days of receiving Seller's request in writing to do so, or if Buyer shall enter into any composition or arrangement with its creditors or if any distress or execution is levied upon any goods or property of Buyer, or if Buyer shall commit any act of bankruptcy or, if a corporation, a receiver shall be appointed of the whole or any part of its undertaking or assets or if Buyer shall pass a resolution for winding up or if a court shall make an order to that effect or if Buyer shall have a receiving order made against it, then at Seller's sole option Seller may defer or cancel any further deliveries or services and treat the Contract or any other contract between Seller and Buyer as terminated, but such termination shall be without prejudice to Seller's right to any unpaid price for goods or materials delivered or cost of work done under the Contract and to damages for loss suffered in consequence of such termination. **2.** Following Seller's acceptance of the order, the same may not be cancelled by Buyer without Seller's written consent. Upon such consent, the following payments shall become due to Seller: **(a)** The

Contract price for all Products completed or services performed at the time of receipt of Buyer's request for cancellation. **(b)** For work in progress, order entry expense, engineering process expense and any materials and supplies procured by Seller or for which Seller is committed in connection with Buyer's order a sum equal to the actual cost thereof, together with overhead expenses determined by Seller in accordance with generally accepted accounting principles plus 15%. **(c)** If Buyer has received any price discounts due to the quantity of goods ordered, but has not purchased the applicable quantity at the time of cancellation, Buyer must also pay Seller the difference between the price Buyer paid and the price it would have paid had Seller's price been based on the quantity actually purchased. **3.** Seller shall suspend the performance of the Contract upon receipt of Buyer's written request to do so but only for a period not exceeding 28 days and Buyer shall reimburse Seller for all storage charges and other additional costs Seller incurs thereby. In the event of the suspension as aforesaid continuing for a period in excess of 28 days, then Seller may terminate the Contract and the rights and liabilities of the parties thereto shall be the same as if the Contract had been cancelled in accordance with the provisions of Section 2 of this Article III.

**IV. Prices and Payment.** **1.** If the Products are shipped from Seller's principal place of business or from any other source within the U.S.A., the quoted price is Seller's principal place of business in Troy, Michigan, or the source of shipment, whichever is applicable unless otherwise agreed upon in writing. If the Products are shipped from outside the U.S.A., the quoted price is port of entry, U.S.A. unless otherwise agreed in writing. **2.** The quoted price of Products do not include taxes, freight costs or similar charges, which shall be borne by Buyer, unless otherwise agreed upon in writing. All prices are subject to change prior to Seller's issuance of a written acknowledgement. For all prices and Products Seller reserves the right to make adjustments due to changing market conditions, product discontinuation, or other extenuating circumstances. **3.** Buyer shall be responsible for any insurance and shipping charges of domestic shipments of Products and Buyer shall reimburse Seller for any such charges paid by Seller, unless otherwise agreed upon in writing. **4.** Unless otherwise agreed to by the parties, all amounts shall be due within 30 days of invoice date. **5.** Overdue amounts shall bear a delinquency charge of interest at 8% per annum or the maximum rate permitted by law. **6.** Buyer shall have no right of set-off with alleged counter-claims. Any

assignments of Buyer's counter-claims to a third party without Seller's prior written consent shall be void. **7.** Buyer agrees to reimburse Seller for any costs and expenses (including reasonable attorney's fees) in connection with the collection of any amounts owed to Seller under this Contract.

**V. Taxes and Other Charges.** Any manufacturer's tax, occupation tax, use tax, sales tax, excise tax, duty, custom, inspection or testing fee or charge of any nature whatsoever imposed by any governmental authority, domestic or foreign, on or measured by the transaction between Seller and Buyer shall be paid by Buyer in addition to the price quoted or invoiced. In the event Seller is required to pay any such tax, fee or charge, Buyer shall reimburse Seller therefor unless otherwise agreed upon in writing.

**VI. Limited Warranties.** **1.** Seller warrants that all new Products, including such parts manufactured by others are integral therewith, shall be free from defects in material and workmanship for a period of 12 months from the date of Delivery. Seller's obligations under the aforesaid warranty shall be repairing or replacing the Products delivered to Buyer or its customer which prove to be defective in material and workmanship. Such repair or replacement shall be Seller's sole obligation and Buyer's sole remedy hereunder and shall be conditioned upon Seller's receipt of written notice of any alleged defect within 10 days after its discovery, and at Seller's option return of such defective Products or part thereof freight prepaid to Seller's principal place of business. **2.** Seller's obligations under Section 1 of this Article VI shall not apply to any component or part of Products sold hereunder, which has been damaged due to negligent or faulty use, alteration, maintenance not in accordance with applicable instructions or performed by untrained technicians, storage or handling by Buyer. **3.** Any description or representation of the Products whether in writing or made orally by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Buyer's order are for the sole purpose of identifying Products and shall not be construed as an express warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of Products shall not be construed as an express warranty unless confirmed to be such in writing by Seller. Production figures and specifications by Seller are estimates only and are not warranties, unless expressly stated

otherwise. **4.** THE WARRANTY EXPRESSED HEREIN SHALL BE IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND IS IN LIEU OF ANY AND ALL OTHER OBLIGATIONS OR LIABILITY ON SELLER'S PART. **5.** ANY PRODUCTS, WHICH BY AGREEMENT OF THE PARTIES ARE OF LESS THAN SELLER'S STANDARD QUALITY ARE SOLD "AS IS".

**VII. Warranty Claims, Inspection, and Waiver of Defects.** **1.** Written notice of any alleged defect must be presented to Seller immediately upon Buyer's discovery of the defect, and Seller must be allowed to inspect the Products while they are in the alleged defective condition. Use of the Products must be suspended until written clearance is issued by Seller for continued use, provided that Seller, upon receipt of written notice of an alleged defect, proceeds without unreasonable delay to remedy any defect covered by the warranty. **2.** Buyer shall inspect all Products immediately upon their arrival and shall immediately give written notice to Seller of any claim that the Products do not conform to the terms of the Contract. Seller shall have reasonable access to inspect any allegedly nonconforming Products. **3.** Buyer waives any right to assert any claim against Seller arising from any non-conformity of Products sold hereunder which would have been observable on reasonable inspection or testing within 30 days after Delivery.

**VIII. Limitation of Liability.** **1.** Except as otherwise agreed in writing, Seller's liability with respect to the Products is limited to the warranty provided in Articles VI and VII hereof, and in no event shall exceed the Contract price of the Products. **2.** SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHER THEORIES OF LAW, WITH RESPECT TO PRODUCTS SOLD OR SERVICE RENDERED BY SELLER OR UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO. **3.** UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS, DAMAGE OR EXPENSE OF ANY KIND, INCLUDING LOSS OF PROFITS, ARISING IN CONNECTION

WITH THE CONTRACT OR WITH THE USE OR LIABILITY TO USE SELLER'S PRODUCTS FURNISHED UNDER THIS CONTRACT. **4.** SELLER'S SOLE LIABILITY AND BUYER'S SOLE REMEDY IS LIMITED TO EITHER (a) REPAIR OR REPLACEMENT OF DEFECTIVE PARTS OR PRODUCTS, OR (b) AT SELLER'S OPTION, RETURN OF THE GOODS TO SELLER AND REFUND OF PURCHASE PRICE. **5.** Without limiting the generality of the foregoing Seller specifically disclaims any liability for property or personal injury damages, penalties, special or punitive damages, damages for lost profits or revenues, loss of use of Products, or any associated equipment, cost of capital, cost of repairs to Products subject to Seller's warranty performed by persons other than Seller without Seller's prior written consent, cost of substitute Products, facilities or services, down-time or slow-down costs or for any other types of economic loss, and for claims of Buyer's customers or any other third party for any such damages. Seller disclaims any liability for any claim, whether in contract or in tort, which arose more than 1 year prior to the initiation of arbitration or litigation by Buyer against Seller. **6.** Buyer agrees to cause its customers and anybody in the chain of manufacturing supply and distribution including the end customer to be bound by limitations of liability substantially equal to those contained in these T&Cs.

**IX. Security Interest.** BUYER HEREBY GRANTS TO SELLER A SECURITY INTEREST IN THE PRODUCTS SOLD HEREUNDER TO SECURE PAYMENT OF THE PRICE OF SUCH PRODUCTS AND AGREES, AND APPOINTS SELLER ITS AGENT, TO TAKE ALL SUCH ACTION AND TO EXECUTE ALL SUCH DOCUMENTS AND INSTRUMENTS AS MAY BE NECESSARY OR REASONABLY REQUESTED BY SELLER TO PERFECT AND CONTINUE PERFECTED SELLER'S SECURITY INTEREST HEREUNDER.

**X. Insurance.** **1.** Seller is entitled to insure the Products sold hereunder against damage or loss if shipping is delayed by reasons beyond the reasonable control of Seller during this delay; at the expense of Buyer unless parties have agreed otherwise. However, Seller is not obligated to obtain insurance. **2.** Until final payment is made Buyer, Buyer shall insure such Products at its expense for the benefit of Seller against damages and loss, including, but not limited to, fire and flood, and shall give written proof thereof to Seller.

**XI. Proprietary Information/Confidentiality.** **1.** All drawings, diagrams, specifications and other materials furnished by Seller (relating to the production, formulation and use of Products sold hereunder and the information therein) are propriety to Seller. All such information supplied by Seller except for information that **(a)** was generally available to Buyer from public or published sources, provided publication did not take place in violation of this Contract or through fault or omission of Buyer, **(b)** was lawfully obtained from a source under no obligation of confidentiality, directly or indirectly, to either Buyer or Seller, or **(c)** was disclosed to the general public with the written approval of Seller shall be received in confidence, and Buyer shall exercise due diligence and reasonable care to hold such information in confidence. **2.** In the event Buyer's personnel visits Seller's research or production facility or otherwise receive any proprietary or confidential information from Seller, said information shall be retained as confidential by Buyer and not disclosed to any third party without written prior consent of Seller. Seller retains all rights in any invention or improvement, discovery or patent it conceives relating to the Products sold under this Contract. **3.** This Article shall survive the termination or expiration of these T&Cs.

**XII. Patents, Copyrights and Trademarks.** **1.** Seller assumes no liability as to any patent or copyright infringement by virtue of the use of Products in combination with other goods and services, or the use of Products manufactured to Buyer's specifications. **2.** Buyer shall not use Seller's trademarks without Seller's prior written consent.

**XIII. Severability.** If at any time any one or more of the provisions of these T&Cs become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions of these T&Cs shall not be in any way impaired.

**XIV. Force Majeure.** **1.** Neither Party shall be responsible for non-fulfilment of its obligations hereunder or under any Contract due to events or circumstances beyond the affected Party's reasonable control, such as war, civil war, riots, terrorism, pandemic, strikes and other labor disputes (other than legal strikes or labor disputes by employees of such Party, or a third party contractor of such Party, unless, in either such case, such strikes or other labor disputes are the result or part of a



general industry strike or labor dispute), and natural disasters (“Force Majeure”). **2.** A Party shall not be entitled to invoke Force Majeure, nor shall it be relieved of its obligations hereunder or under any Contract in any of the following circumstances: **(a)** if and to the extent the Party seeking to invoke Force Majeure has caused the applicable event of Force Majeure by its fault or negligence; **(b)** if and to the extent the Party seeking to invoke Force Majeure has failed to use reasonable efforts to prevent or remedy the event of Force Majeure and remove, so far as possible and within a reasonable time period, the Force Majeure (except in the case of strikes, lockouts and other labor disturbances, the settlement of which shall be wholly within the discretion of the Party involved); **(c)** if and to the extent that the Party seeking to invoke Force Majeure because of arrest or restraint by a governmental authority, such arrest or restraint was the result of a breach of or failure to comply with Laws by such Party; and **(d)** if the Force Majeure was caused by a lack of funds or other financial cause. **3.** For any such delay that occurs due to a Force Majeure event, any applicable time period hereunder and any affected Contracts shall be automatically extended for a period equal to the time lost, provided that the Party affected makes commercially reasonable efforts to correct the reason for such delay, or to minimize such delay (other than in case of a labor disruption) and gives to the other Party prompt notice of any such delay. If a Force Majeure event continues for a period of more than 180 days, either Party may terminate any affected Contracts immediately without further liability to other Party other than the reimbursement of amounts paid for Products not delivered or services not performed or the payment for Products delivered or services performed prior to termination, as the case may be but only if such Products or services as provided have utility to Seller. **4.** A Party affected by Force Majeure shall give the other Party written notice of such event and its anticipated effects within 10 working days of the commencement of the event or circumstances giving rise to the Force Majeure and promptly upon the conclusion of the event of Force Majeure. A Force Majeure event shall not give rise to any change in the Purchase Price.

**XV. Export Control.** Each Party shall comply with all applicable U.S. export control laws and economic sanctions laws and regulations, specifically including but not limited to the International Traffic in Arms Regulations (ITAR), 22 C.F.R. 120 et seq.; the Export Administration Regulations, 15 C.F.R. 730-774; and the Foreign Assets Control Regulations, 31 C.F.R. 500-598.



**XVI. Compliance Clauses.** Buyer acknowledges that it has read the Seller's Code of Conduct for Business Partners, which is attached hereto as Addendum A and which may be amended from time to time. Buyer agrees that it will comply fully with the Code of Conduct for Business Partners in the performance of any Contract.

**XVII. U.S. Foreign Corrupt Practices Act.** Each Party shall comply with all Laws and regulations that govern or relate to the performance of its obligations hereunder, including to the extent applicable to it, the U.S. Foreign Corrupt Practices Act (“FCPA”) and similar Laws of applicable foreign jurisdictions. Neither Party shall seek to influence sales or other business affairs by means of kickbacks, illegal payments or other ethically questionable inducements, including gifts, or anything of value. Neither Party shall, and shall procure that its employees and agents shall not, offer, give or agree to give any person, or accept or agree to accept from any person, whether for itself or on behalf of another, any gift, payment, consideration, financial or non-financial advantage or benefit of any kind, which constitutes an illegal or corrupt practice under applicable Laws of any country, either directly or indirectly hereunder, or otherwise than in connection with this Contract (the “Anti-Corruption Obligation”). Each Party shall immediately disclose in writing to the other Party details of any breach of the Anti-Corruption Obligation. Each Party shall always maintain strict compliance with the Anti-Corruption Obligation, monitor its employees, agents and sub-contractors to ensure compliance with the Anti-Corruption Obligation and make clear, in all of its dealings related to the other Party, that it is required by such other Party to act, and is acting, in accordance with the Anti-Corruption Obligation. This Article XVII shall survive the termination or expiration of this Contract.

**XVIII. Arbitration.** All disputes arising under this Contract shall be settled by final and binding arbitration in the City of Detroit, Michigan in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. The parties may agree on the selection of a single arbitrator, but in the event they cannot agree, each party select an arbitrator and the two selected arbitrators shall select a third arbitrator. The award by the arbitrator or arbitrators shall be final and judgment upon the award rendered may be entered in any court having jurisdiction thereof.

XIX. **Governing Law.** The law governing this Contract and any further contracts between Seller and Buyer shall be the substantive laws of the State of Michigan, without regard to its conflicts of law rules. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded.