

December 11, 2022

TOMLINSON TERMS AND CONDITIONS

1. **Applicability; Contract Formation.** These terms and conditions (the “Terms”), the order confirmation (the “Order Confirmation”), and the invoice (the “Invoice”) (collectively, the “Agreement”) are the only terms and conditions that govern the sale of the goods (the “Goods”) by Tomlinson to the purchaser identified on the Order Confirmation (“Purchaser”). To the extent these Terms conflict with the Order Confirmation or the Invoice, the terms of the Order Confirmation or the Invoice, as applicable, shall govern. The Agreement constitutes the terms of Tomlinson’s offer to sell to the Purchaser the Goods. Tomlinson’s offer is expressly conditioned on Purchaser’s assent to and acceptance of all terms and conditions set forth in the Agreement, without regard to any additional or different terms. Purchaser may accept the terms of the Agreement by (i) providing written notice to Tomlinson of Purchaser’s acceptance of the terms of the Agreement, or (ii) not objecting in writing within three (3) days of Purchaser’s receipt of the Order Confirmation. Any additional or different terms proposed by Purchaser, in the Purchaser’s purchase order, or otherwise, are rejected and excluded. The Agreement constitutes the entire agreement between the parties, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Fulfillment of Purchaser's order does not constitute acceptance of any of Purchaser's terms and conditions and does not serve to modify or amend the Agreement.

2. **Delivery.**

(a) The Goods will be delivered on the date specified in the Order Confirmation, as amended, if applicable, based on the longest lead time of the specific Goods ordered from Tomlinson (the “Request Date”).

(b) If delivery cannot be made as specified in the Order Confirmation due to reasons beyond the control of Tomlinson, then Tomlinson shall not be responsible or liable for any losses, damages, costs, expenses, or claims arising from such delay.

(c) If Tomlinson is unable to deliver the Goods as set out in the Order Confirmation because Purchaser has not provided appropriate instructions, documents, licenses, or authorizations: (i) risk of loss to the Goods shall pass to Purchaser; (ii) the Goods shall be deemed to have been delivered; and (iii) Tomlinson, at its option, may store the Goods until Purchaser picks them up, whereupon Purchaser shall bear all related costs and expenses (including, without limitation, storage, and insurance).

3. **Quantity.** To accommodate lead times and delivery of the Goods to Purchaser on the Request Date, Tomlinson may ship the Goods in partial shipments to Purchaser as production of the Goods is completed or make modifications to the Agreement with Purchaser, as evidenced by a pro forma invoice accompanying a partial shipment (the “Pro Forma Invoice”). Each partial shipment will constitute a separate sale, and Purchaser shall pay for the Goods shipped as provided in the Invoice, or Pro Forma Invoice as applicable, accompanying any partial shipment of the Goods. If Tomlinson delivers to Purchaser a quantity of Goods of up to five percent (5%) more

or less than the quantity set forth in the Invoice or Pro Forma Invoice, as applicable, Purchaser shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth on the Invoice or Pro Forma Invoice, as applicable, adjusted pro rata.

4. **Shipping Terms.** Delivery shall be made in accordance with the terms contained in the Order Confirmation. If the Goods are shipped from the United States, then the Goods will be shipped F.O.B. Tomlinson's facility. If the Goods are shipped from an international location, then the Goods will be shipped EXW distribution facility or manufacturing facility, as applicable.

5. **Title and Risk of Loss.** Title and risk of loss passes to Purchaser upon delivery of the Goods in accordance with the terms contained in the Order Confirmation. As collateral security for the payment of the purchase price of the Goods, Purchaser hereby grants to Tomlinson a lien on and security interest in and to all of the right, title, and interest of Purchaser in, to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing, until Purchaser has paid for the Goods in full. The security interest granted under this Section 5 constitutes a purchase money security interest under the Uniform Commercial Code Article 2, as adopted in the State of Ohio.

6. **Amendment and Modification.** Unless modified by a Pro Forma Invoice, these Terms may only be amended or modified in a writing, which specifically states that it amends these Terms and is signed by an authorized representative of each party.

7. **Price.**

(a) Purchaser shall purchase the Goods from Tomlinson at the prices set forth in Tomlinson's Invoice or Pro Forma invoice, as applicable (the "Price(s)").

(b) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Purchaser. Purchaser shall be responsible for all such charges, costs, and taxes; provided, that, Purchaser shall not be responsible for any taxes imposed on, or with respect to, Tomlinson's income, revenues, gross receipts, personnel or real or personal property or other assets.

8. **Payment Terms.**

(a) Purchaser shall pay all amounts due to Tomlinson within five (5) days from the date Purchaser receives Tomlinson's Invoice or Pro Forma Invoice, as applicable (the "Payment Period"), whether such Invoice or Pro Form Invoice covers all of the Goods or partial fulfillment of Purchaser's purchase order. Purchaser shall make all payments hereunder in US dollars.

(b) Purchaser shall pay interest on all late payments at the lesser of either a rate of one and half percent (1.5%) per month or the highest rate permissible under applicable law,

calculated daily and compounded monthly. Purchaser shall reimburse Tomlinson for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Tomlinson does not waive by the exercise of any rights under this Section (b)), if any amount due Tomlinson remains past due for five (5) days or more, then Tomlinson may cease further performance under the Agreement until payment of the past due amounts (including any interest thereon) has been received.

(c) Purchaser shall not, and acknowledges that Purchaser will have no right, under this Agreement, any purchase order, or any other agreement, document, or law to, withhold offset, recoup, or debit any amounts owed (or to become due and owing) to Tomlinson or any of Tomlinson's affiliates, whether under this Agreement or otherwise, against any other amount owed (or to become due and owing) to Purchaser by Tomlinson or Tomlinson's affiliates, whether relating to Tomlinson's or Tomlinson's affiliate's breach or non-performance of the terms of this Agreement, any purchase order, or any other agreement between Buyer, and any of Buyer's affiliates, and Tomlinson, or any of Tomlinson's affiliates, or otherwise.

9. **Remedy for Purchaser's Breach.** Purchaser acknowledges and agrees that the Goods are specially manufactured and/or procured according to Purchaser's unique specifications and quantities, as set out in the Agreement. As such, Purchaser acknowledges and agrees that, in the event Purchaser breaches the provisions of the Agreement, the Goods are not resalable by Tomlinson in the market, and Tomlinson will be unable to mitigate any damages suffered by Tomlinson as a result of Purchaser's breach. Because of the nature of the Goods as described in this Section 9, in the event Purchaser breaches any of Purchaser's payment obligations under the Agreement, Purchaser shall be liable to Tomlinson in an amount equal to the full amount outstanding on the contract Price at the time of Purchaser's breach plus any attorney's fees incurred by Tomlinson in enforcing the terms of the Agreement.

10. **Remedy for Tomlinson's Breach.** Purchaser's remedy for Tomlinson's breach is as follows:

(a) Purchaser shall inspect the Goods within five (5) days of receipt ("Inspection Period"). Purchaser will be deemed to have accepted the Goods unless it notifies Tomlinson in writing of any Nonconforming Goods (as defined below) during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Tomlinson. For purposes of the Agreement, "Nonconforming Goods" means (i) the Goods are different than the Goods identified in Tomlinson's Order Confirmation, (ii) the Goods deviate in quantity from the quantity stated in the Invoice or Pro Forma Invoice, as applicable, except for certain quantity deviations as addressed in Section 3 herein, (iii) the Goods do not significantly conform to the specifications of the Goods as stated on the Order Confirmation.

(b) In the case that the Goods are Nonconforming Goods under Section 10(a)(i) or 10(a)(ii) and Purchaser timely notifies Tomlinson of such Nonconforming Goods, Tomlinson shall, in its sole discretion, (i) replace such Nonconforming Goods with

conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Purchaser in connection therewith. If Tomlinson exercises its option to replace Nonconforming Goods, Tomlinson shall ship to Purchaser, the replaced Goods in accordance with the shipping terms on the Order Confirmation.

(c) In the case that the Goods are Nonconforming Goods under Section 10(a)(iii) and Purchaser timely notifies Tomlinson of such Nonconforming Goods, Purchaser shall ship, at Purchaser's expense and risk of loss, the Nonconforming Goods to Tomlinson's address, as set out on the Order Confirmation. Tomlinson shall inspect and test the Goods Purchaser claims are Nonconforming Goods within a reasonable time of Tomlinson's receipt of the Goods from Purchaser. If such testing by Tomlinson reveals, to Tomlinson's reasonable satisfaction, that the Goods are Nonconforming Goods, Tomlinson shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Purchaser in connection therewith. If Tomlinson exercises its option to replace Nonconforming Goods, Tomlinson shall, after receiving Purchaser's shipment of Nonconforming Goods, ship to Purchaser, the replaced Goods in accordance with the shipping terms on the Order Confirmation.

11. **Limited Warranty.**

(a) Tomlinson warrants to Purchaser that for a period of one (1) year from the date of shipment of the Goods ("Warranty Period"), that such Goods will be free from defects in material and workmanship. Purchaser shall give Tomlinson written notice within three (3) days of Purchaser's discovery of the condition giving rise to Purchaser's claim under this Section 11(a). Purchaser's sole remedy for any claims made under this Section 11(a) are limited to repair or replacement of the Goods, or portion of the Goods, as applicable.

(b) The warranty in Section 11(a) will not apply if (i) Tomlinson's examination shows the Goods to be defective as the result of negligence, abuse, misapplication, or alteration by Purchaser, a third party, or any party other than Tomlinson; (ii) Purchaser performs, or has a third party perform, unauthorized field service on the Goods; (iii) Purchaser makes further use of the Goods after giving Tomlinson notice of a warranty claim as required under Section 11(a) of these Terms; or (iv) upon Tomlinson's good faith examination, the Goods are not deemed defective.

(c) EXCEPT AS SET FOR IN SECTION 11(a), TOMLINSON MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY, OR (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

(d) Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the

Goods. TOMLINSON MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY; (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (iii) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. Notwithstanding the foregoing, to the extent a Third Party Product carries a warranty from the third party manufacturer, Tomlinson will cooperate in good faith with Purchaser to allow enforcement of such warranties extended by such third party manufacturer.

12. **Limitation of Liability.**

(a) IN NO EVENT SHALL TOMLINSON BE LIABLE TO PURCHASER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT TOMLINSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL TOMLINSON'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO TOMLINSON FOR THE GOODS SOLD HEREUNDER.

(c) The limitations of liability set forth in this Section 12 shall not apply to situations where Tomlinson's gross negligence or willful misconduct causes death or bodily injury.

13. **Compliance with Law.** Purchaser and Tomlinson shall comply with all applicable laws, regulations, and ordinances necessary to effectuate the terms of the Agreement. Purchaser shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that Purchaser needs to carry out its obligations under the Agreement. Purchaser shall comply with all export and import laws of all countries involved in the sale of the Goods under the Agreement where applicable. Purchaser assumes all responsibility for shipments of the Goods requiring any government import clearance. Tomlinson may terminate the Agreement if any governmental authority imposes antidumping, countervailing duties, or any other penalties on the Goods.

14. **Termination.** In addition to any remedies that may be provided under these Terms, Tomlinson may terminate the Agreement with immediate effect upon written notice to Purchaser, if Purchaser (i) fails to pay any amount when due under the Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent or

files a petition for bankruptcy or commences, or has commenced against it, proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

15. **Waiver**. No waiver by Tomlinson of any of the provisions of the Agreement is effective unless explicitly set forth in writing and signed by Tomlinson. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from the Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

16. **Force Majeure**. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement (except for any obligations of Purchaser to make payments to Tomlinson hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": (i) acts of God; (ii) flood, fire, earthquake, or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riots, or other civil unrest; (iv) government order, law, or actions; and (v) embargoes or blockades in effect on or after the date of the Order Confirmation. The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the estimated period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable. In the event the Impacted Party's failure or delay remains uncured, and/or the parties have not otherwise modified the terms of the Agreement in writing in response to the Force Majeure Event, for a period of thirty (30) days following written notice given by it under this Section 16, the other party may thereafter terminate the Agreement upon thirty (30) days' written notice.

17. **Assignment**. Purchaser shall not assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of Tomlinson. Any purported assignment or delegation in violation of this Section 18 is null and void. No assignment or delegation relieves Purchaser of any of its obligations under the Agreement.

18. **Relationship of the Parties**. The relationship between the parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating 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.

19. **No Third-Party Beneficiaries**. The Agreement is for the sole benefit of the parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms or any other agreements involving the parties hereto.

20. **Governing Law.** The Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Ohio, excluding its conflicts of law rules. Tomlinson and Purchaser shall meet in good faith to attempt to resolve informally any disputes arising out of the Agreement.

21. **Arbitration.** All controversies or claims arising out of or relating to the Agreement, or the breach thereof, shall be settled by binding arbitration administered by the International Centre for Dispute Resolution of the American Arbitration Association in accordance with its Commercial Arbitration Rules (“Arbitration Proceedings”), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof, including without limitation, courts within jurisdictions, countries, provinces, states, or sovereigns that are signatories to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Arbitration Proceedings will be based on the submission of documents and there shall be no in person or oral hearing. The prevailing party shall be entitled to an award of reasonable attorney’s fees. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any Arbitration Proceedings hereunder without the prior written consent of both parties.

22. **Disclaimer of CISG.** The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed by Tomlinson and Purchaser with respect to the Agreement and all transactions contemplated by the Agreement.

23. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Order Confirmation, or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of the Notice under the terms of the Agreement.

24. **Severability.** If any term or provision of the Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

25. **Survival.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Agreement.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.