

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (hereinafter the “Terms”) referred to in any attached agreement or price list govern all quotes, acknowledgments, purchase orders, sales orders, supply agreement, invoices, and sales of goods or services (“Products”) by Arclin USA LLC or any of its affiliated entities (collectively, “Arclin”) to the purchasing entity (“Customer”). Arclin and Customer (individually, a “Party” or collectively, the “Parties”) agree as follows:

1. ORDERS AND SHIPPING

- a. Customer shall order Products using purchase orders, all of which are subject to these Terms. Regardless of what is printed on any purchase order or other Customer document to the contrary, these Terms shall solely govern the sale of the Products from Arclin to the Customer.
- b. Arclin shall indicate the Customer’s purchase order number on all bills of lading, invoices, and freight bills, and shall include in each shipment a record showing Arclin’s name, the contents of the shipment, and Customer’s purchase order number.
- c. Unless otherwise agreed by the Parties in writing, all shipments hereunder are Ex Works (Arclin’s facility), Incoterms® 2020. Arclin shall make no declaration of value to carrier except where the shipment is subject to released value rating or customs requirements. If Customer fails to take the Products in accordance with these Terms, Arclin may, at its sole option and upon reasonable notice, postpone delivery, store the Products at Customer’s risk and expense, or cancel the applicable portion of such order. Customer shall be liable for any resulting storage, demurrage, handling, transportation, and all other costs incurred by Arclin as a result of such failure to take delivery. Such postponement or cancellation shall not affect any remaining portion of the relevant order.
- d. Shipping, delivery, and performance dates are estimates only, calculated from the date of receipt of Customer’s purchase order and all information reasonably requested by Arclin to provide the Products. Arclin reserves the right to recalculate any projected shipping, delivery, or performance dates upon receipt of Customer’s order. Upon prior written notice, Arclin may ship all the Products at one time or in portions from time to time.
- e. Charges will be applicable for short notice order changes. In the event that Customer no longer wants the Product and/or quantity that was indicated on a purchase order, Arclin will use its reasonable efforts to resell or reuse the extra Product; provided, however, that Customer shall ultimately be responsible for any costs borne or incurred by Arclin for the Product, including but not limited to Arclin managing, re-purposing or disposing of unused Product that was produced pursuant to Customer’s purchase order.
- f. Customer may not cancel any purchase order, in whole or in part, without Arclin’s prior written approval. In the event a cancellation is approved by Arclin then, unless otherwise agreed, Customer shall pay Arclin (i) all costs and expenses Arclin incurred in relation to the order before Arclin received Customer’s cancellation request, (ii) a cancellation charge equal to 20% of the invoice price of any Products cancelled from the order, and (iii) any shipping charges and other out of pocket expenses incurred by Arclin in relation to the cancellation.

2. PAYMENT TERMS; CREDIT

- a. Unless otherwise agreed by the Parties in writing, Arclin’s terms of payment are net thirty (30) days from the date of invoice. Non-compliance with these payment terms shall constitute a default without further notice. Any amount not paid when due shall, beginning on the date such payment is due, accrue a late charge equal to the lesser of (i) 1.5% of the past-due amount, and (ii) the maximum rate or amount permitted under governing law, as liquidated damages and not a penalty. Arclin reserves the right to withhold or cancel any order or shipment or terminate these Terms in the event of Customer’s payment default.
- b. If the financial position of Customer becomes impaired or unsatisfactory to Arclin, or Customer is in default to Arclin under these Terms or any other agreement, (i) Customer shall, at Arclin’s election and specification, give advance cash payment or satisfactory security to Arclin, and (ii) Arclin may withhold any shipment of Product until Arclin receives the specified payment or security.
- c. Customer shall not make any deductions (including but not limited to those for alleged damages) from payments then due Arclin under these Terms.

3. TITLE; RISK OF LOSS

- a. Unless otherwise agreed by the Parties in writing, (i) risk of loss or damage to the Products shall pass from Arclin to Customer at the time the Products are delivered to the carrier or other Customer-designated entity at the named place in accordance with the EXW Incoterms® 2020, and (ii) title to the Products shall pass from Arclin to Customer at the same time that risk of loss transfers to Customer, subject to the applicable invoice being paid in full.
- b. Notwithstanding the transfer of title and risk of loss, Customer shall bear all costs and responsibilities associated with transportation, insurance (if any), export clearance after delivery where applicable, and all subsequent handling of the Products following transfer of risk of loss. Transfer of risk of loss shall not affect Customer’s rights with respect to any timely made warranty or defect claims under Section 4 (Claims and Inspection).
- c. The most recent version of the Incoterms® of the International Chamber of Commerce in Paris shall apply to all cross-border transactions.

4. CLAIMS AND INSPECTION

- a. For liquid, gaseous, chemical, or polymer Products, Customer shall inform Arclin, in writing, of any (i) order quantity discrepancy or shortage within seven (7) days of delivery of the Product, and (ii) any defect within the earlier of (x) fifteen (15) days of delivery

of such Product, or (y) the timeframe expressly stated in the technical data sheet applicable to such Product, in each case, specifying the nature and extent of the claim. **FAILURE TO COMPLY WITH THE INSPECTION AND NOTICE OBLIGATIONS SET FORTH IN THIS SECTION 4(a) AND WITHIN THE FOREGOING TIME PERIOD(S) SHALL BE DEEMED ACCEPTANCE OF THE PRODUCTS AND ARCLIN'S PERFORMANCE OF ITS OBLIGATIONS, EXCEPT TO THE EXTENT A DIFFERENT INSPECTION, ACCEPTANCE, OR NOTICE REQUIREMENT IS EXPRESSLY AGREED TO IN WRITING BY ARCLIN.**

- b. For homogenizing agents, anti-tack, and dispersion Products, Customer shall perform a reasonable inspection within thirty (30) days of delivery and notify Arclin, in writing, of any claim or defect within one hundred twenty (120) days of delivery of such Product. Customer shall retain the claim lots and shall not dispose of such Products without Arclin's prior written consent. If requested, Customer shall provide Arclin with sample for root cause analysis. **FAILURE TO COMPLY WITH THE INSPECTION AND NOTICE OBLIGATIONS SET FORTH IN THIS SECTION 4(b) AND WITHIN THE FOREGOING TIME PERIOD(S) SHALL BE DEEMED ACCEPTANCE OF THE PRODUCTS AND ARCLIN'S PERFORMANCE OF ITS OBLIGATIONS.**
- c. For solid fiber, film, overlay, or similar surface Products, Customer shall perform a reasonable inspection upon delivery and notify Arclin, in writing, of any defect within ninety (90) days of delivery of such Product. **FAILURE TO COMPLY WITH THE INSPECTION AND NOTICE OBLIGATIONS SET FORTH IN THIS SECTION 4(c) AND WITHIN THE FOREGOING TIME PERIOD(S) SHALL BE DEEMED ACCEPTANCE OF THE PRODUCTS AND ARCLIN'S PERFORMANCE OF ITS OBLIGATIONS.**
- d. For aramid Products, Customer shall perform a reasonable inspection upon delivery and notify Arclin, in writing, of any defect within ninety (90) days of delivery of such Product. **FAILURE TO COMPLY WITH THE INSPECTION AND NOTICE OBLIGATIONS SET FORTH IN THIS SECTION 4(d) AND WITHIN THE FOREGOING TIME PERIOD(S) SHALL BE DEEMED ACCEPTANCE OF THE PRODUCTS AND ARCLIN'S PERFORMANCE OF ITS OBLIGATIONS.**
- e. Customer is prohibited from making any claim after any part of the Product has been changed from its original condition, except for (i) reasonable quantities used for testing, inspection, evaluation, and validation purposes as set forth in Section 5(c) below, and (ii) claims relating to alleged defects in the performance of the Products that could not be reasonably discovered prior to such use. In the case of any such performance-related defect claim, Customer shall bear the burden of demonstrating, with reasonable supporting evidence, that the Product failed to conform to the applicable specifications and that such nonconformity was not caused by Customer's processing, handling, storage, use, or any other factor outside Arclin's control.
- f. Arclin's invoice weights, volumes, sizes, and rates shall be deemed correct and relevant for invoicing, unless otherwise agreed by Arclin in writing. Products subject to a defect claim shall not be returned to Arclin or otherwise disposed of without Arclin's prior written consent.

5. END USE

- a. Any recommendation by Arclin regarding the use or application of any Product is made in good faith; however, Arclin makes no representation or warranty as to results. Customer is solely responsible for determining the suitability of the Products for Customer's intended use and Customer acknowledges that it has not and will not rely on Arclin's skill or judgment in selecting the Products. Customer further acknowledges that Arclin has limited knowledge regarding any particular purpose for which Customer will use the Products.
- b. Customer agrees that the Products are purchased solely for Customer's own captive internal use, and Customer shall not sell or otherwise directly or indirectly dispose of the Products to any other person, firm, corporation or other similar entity without Arclin's prior written consent.
- c. Customer shall not de-formulate, reverse engineer, or otherwise analyze the Products or any other Confidential Information of Arclin using any method that reveals chemical identity, structure, composition, and additives, except that Customer may test the Products solely for characteristics identified on Arclin's applicable Certificate of Analysis and mutually agreed specifications without Arclin's prior written consent. All Product test results constitute Confidential Information of Arclin and will be treated in accordance with Section 12 (Intellectual Property; Non-Infringement; Confidentiality).

6. WARRANTIES

- a. **ARCLIN MAKES NO WARRANTY, REPRESENTATION OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PRODUCTS SUPPLIED TO CUSTOMER UNDER THESE TERMS EXCEPT THAT (A) SUCH PRODUCTS SHALL NOT INFRINGE OR MISAPPROPRIATE THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, (B) SUCH PRODUCTS SHALL BE FREE OF ANY CLAIM, LIEN OR ENCUMBRANCE OF ANY NATURE BY ANY THIRD PARTY, (C) ARCLIN HAS AND SHALL CONVEY CLEAN TITLE OF ALL SUCH PRODUCTS TO CUSTOMER UPON TRANSFER IN ACCORDANCE WITH SECTION 3 (TITLE; RISK OF LOSS), AND (D) ALL SUCH PRODUCTS SHALL BE NEW AND OF MERCHANTABLE QUALITY FREE FROM ALL DEFECTS IN DESIGN, WORKMANSHIP AND MATERIALS AND OF THE QUALITY AND SPECIFICATIONS IN ACCORDANCE WITH SECTION 9 HEREOF.**
- b. **ARCLIN MAKES NO WARRANTY AND OFFERS NO ASSURANCE OR GUARANTEE, EITHER DIRECT OR IMPLIED, AS TO THE EFFECTIVENESS OR SUITABILITY OF ITS PRODUCTS, INCLUDING BUT NOT LIMITED TO PROTECTION FROM FIRE, WATER, OR ANY OTHER DAMAGE, WHETHER ANTICIPATED OR FORESEEN. CUSTOMER AGREES TO ASSUME ALL RISK AND LIABILITY WITH REGARD TO ITS USE OF THE PRODUCTS, AS DETAILED IN SECTION 7 (INDEMNIFICATION; LIMITATION OF LIABILITY).**
- c. **THE FOREGOING WARRANTIES ARE EXCLUSIVE OF AND ARE GIVEN IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6(A), ARCLIN EXPRESSLY DISCLAIMS AND EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

7. INDEMNIFICATION; LIMITATION OF LIABILITY

- a. Customer assumes any and all risk and liability for loss, damage, or injury to any persons or property arising out of the use, possession, handling, storage, transportation, processing, or disposal of any Products sold hereunder. Each Party shall use commercially reasonable efforts to mitigate the damages resulting from a breach of these Terms by such Party.
- b. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ARCLIN EXPRESSLY DISCLAIMS LIABILITY FOR, AND IN NO EVENT SHALL ARCLIN BE LIABLE FOR ANY PENALTIES, COST OF CAPITAL, LOST PROFITS OR REVENUES, LOST SAVINGS, DOWNTIME COSTS, LOSS OF PRODUCTION, LOSS OF USE OF FACILITIES OR EQUIPMENT, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF REPUTATION OR GOODWILL, CLAIMS FROM CUSTOMER'S CUSTOMERS OR SUPPLIERS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF ARCLIN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ARCLIN SHALL NOT BE LIABLE FOR ANY LIABILITY, DIRECT OR INDIRECT, NOR SHALL ANY ORDER BE CANCELLED, ARISING OUT OF OR RESULTING FROM ANY DELAYS IN MEETING DELIVERY DATES OR SCHEDULES, UNLESS AGREED IN WRITING BETWEEN THE PARTIES. WITHOUT LIMITING THE FOREGOING, ARCLIN'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THESE TERMS OR THE PRODUCTS, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING BUT NOT LIMITED TO CONTRACT, TORT, NEGLIGENCE, STRICTLY LIABILITY, OR OTHERWISE), SHALL IN NO EVENT EXCEED THE PURCHASE PRICE PAID BY CUSTOMER FOR THE SPECIFIC PRODUCT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS AND EXCLUSIONS SHALL APPLY TO ALL CLAIMS, WHETHER ARISING BEFORE OR AFTER TERMINATION, AND SHALL SURVIVE TERMINATION OR EXPIRATION OF THESE TERMS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE EXCLUSIONS AND LIMITATIONS OF LIABILITY HEREIN REFLECT A BARGAINED-FOR ALLOCATION AND LIMITATION OF RISK, LIABILITY, AND DAMAGES.**
- c. Customer shall defend, indemnify, and hold Arclin and its officers, directors, managers, employees, owners, affiliates, agents and other representatives harmless from and against any and all claims, demands, causes of action, damages, losses, liabilities, obligations, fines, penalties, expenses, and costs (including reasonable attorneys' fees and court costs) arising out of or related to: (i) Customer's breach of these Terms, (ii) the use, handling, storage, transportation, processing, resale, or disposition of the Products by or on behalf of Customer, or (iii) any violation of applicable law or regulation, any negligent or willful act or omission, by Customer or any Customer affiliate, subcontractor, or any of their respective directors, officers, employees, agents or persons for whom they are at law responsible. This indemnity shall apply regardless of any alleged concurrent or contributory fault of Arclin, except to the extent prohibited by applicable law.
- d. Customer acknowledges and agrees that it is a sophisticated purchaser and user of the Products and possesses the experience or expertise in the selection, use, handling, storage, and disposal of such Products. Customer further acknowledges and agrees that it is impracticable for Arclin to supply warnings or other information about the Products to anyone other than the Customer.

8. DELAYS; FORCE MAJEURE

- a. Arclin shall not be liable for any non-performance or delay in performance caused by events beyond its reasonable control (including, but not limited to, acts of God, severe weather (e.g., hurricanes, floods, tornadoes), transportation delays, shortages of materials, plant shutdown due to lack of supplies, equipment failure, regulatory or other mandated business curtailment, strikes, lockouts, or other labor disruptions, governmental action, war, civil unrest, embargoes, epidemics/pandemics, or any other event not wholly within Arclin's control) (collectively, "Force Majeure Events"). Upon the occurrence of any such event, Arclin may, at its option, suspend or reduce deliveries during the affected period, and the total Product quantity deliverable under these Terms shall be reduced by the quantities not delivered. If Arclin becomes aware of any actual or reasonably anticipated delay from any cause, including but not limited to Force Majeure Events, Arclin shall promptly notify Customer of such delay and shall use commercially reasonable efforts to mitigate the delay.
- b. If, due to a Force Majeure Event, Arclin is unable to supply the total Products ordered by Customer, Arclin may allocate its available supply of the Products among any or all customers, including Arclin and its affiliates, or make partial shipments on such basis as it may deem fair and practical without liability for any failure of performance which may result therefrom.

9. SPECIFICATIONS; QUALITY AND STANDARDS

- a. Arclin shall furnish Products in compliance with the specifications mutually agreed by the Parties in writing. If Customer does not provide written specifications for the Product, the Product shall conform, in material respect, to Arclin's standard specifications, or, if none apply, to generally accepted industry standards.
- b. At the time of delivery, Arclin shall comply, in all material respects, with all laws, regulations, and standards applicable in the jurisdiction(s) in which the Products are manufactured and to the extent applicable to Arclin's manufacture, sale, export, or delivery of the Products, the jurisdiction(s) to which the Products are delivered.

10. SAFETY INFORMATION

- a. Arclin shall provide Safety Data Sheets ("SDS") for each of the Products sold hereunder as required by applicable law in effect at the time of shipment and shall label each of the Products as required by applicable regulations or standards. Customer acknowledges receipt of any applicable SDS and acknowledges that there are hazards associated with the Products.
- b. Arclin shall provide available and existing health and safety related information, such as toxicological data, that Customer may reasonably request from time-to-time, provided that Arclin shall have no obligation to conduct additional testing or generate new data, to enable the Customer to comply with all applicable federal, provincial, and municipal statutes, regulations, rules and ordinances relating to Customer's use of the Products.
- c. Customer assumes sole responsibility for warning and training its employees, representatives, independent contractors and any other person in any way connected with, using or handling the Products to be delivered pursuant hereto of all hazards of which

Customer knows, reasonably should know, or may become aware, including those which are or may in the future be disclosed in the SDS or other information disclosed by Arclin. Arclin shall have no responsibility or liability for Customer's failure to provide such warnings or training, or for the misuse, improper handling, or non-compliant use of the Products.

11. TAXES

Unless specifically stated on the face of the Arclin price sheet or invoice attached to these Terms or agreed Incoterm, prices for the Products are exclusive of customs duties, tariffs, sales taxes, and all other charges levied directly upon the production, sale, or transportation of the Products, and Customer shall be liable for all such duties, tariffs, and taxes. Any prices that include such customs duties, tariffs, sales tax, or other charges will be based on the rates in effect on the date hereof and may be adjusted relative to any increase or decrease in such rates after such date.

12. INTELLECTUAL PROPERTY; NON-INFRINGEMENT; CONFIDENTIALITY

- a. All inventions (patentable or not), discoveries, devices, technologies, ideas, improvements, processes, systems, software, works of authorship, know-how, drawings, specifications, and other materials or matters that Arclin conceives, creates, develops, or reduces to practice, alone or with others, in connection with the provision of the Products (collectively, "Arclin Intellectual Property") shall be and remain the sole and exclusive property of Arclin. Customer acknowledges and agrees that it acquires no right, title, license, or interest, by implication or otherwise, in any Arclin Intellectual Property or Arclin trade secrets, including without limitation those used in or embodied in the design, assembly, composition, operation, or functionality of the Products. To the extent Customer now has or in the future acquires any right, title, or interest in any Arclin Intellectual Property, Customer hereby irrevocably assigns, and agrees to assign, all such right, title, and interest to Arclin.
- b. Arclin shall have no liability for any patent infringement claim arising out of or relating to Customer's use of the Products, or products or articles made therefrom, whether used alone or in combination with other products or items not supplied by Arclin.
- c. All proprietary or confidential information disclosed by either Party to the other in connection with these Terms, whether in oral, written, electronic, visual, or other form (including information obtained through observation of operations), including but not limited to intellectual property, trade secrets, know-how, processes, methods, concepts, ideas, programs, equipment, technology, apparatus, prototypes, pricing, business, sales, or technical information, and any information marked or otherwise identified as "confidential" or reasonably should be considered confidential considering the circumstances of disclosure (collectively, "Confidential Information"), shall remain the confidential property of the disclosing Party. The receiving Party shall use Confidential Information solely in furtherance of these Terms and shall not disclose such information to any third party without the prior written consent of the disclosing Party, during the term of these Terms and for a period of five (5) years following its termination or expiration, provided however, that any Confidential Information which is deemed a trade secret will be protected and remain confidential indefinitely, and will be governed by the Uniform Trade Secret Act and appropriate state law, unless such information: (i) becomes publicly available through no fault of the receiving Party; (ii) is rightfully received from a third party without a duty of confidentiality; (iii) was lawfully in the receiving Party's possession prior to disclosure; (iv) is independently developed by the receiving Party without reference to, reliance on, or use of the disclosing Party's Confidential Information, as evidenced by written records; or (v) is required to be disclosed pursuant to law, regulation, or legal process, provided that the receiving Party gives prompt notice to the disclosing Party to permit it to seek a protective order or other appropriate relief. Without limiting the foregoing, Customer shall not (a) disclose any proprietary information or trade secrets relating to the Products, (b) decompile, disassemble, or reverse engineer the Products or permit any third party to do so, or (c) display, demonstrate, or permit inspection of the Products by any third-party, or competitor of Arclin without Arclin's prior written consent, which may be withheld in Arclin's sole discretion.
- d. The Parties acknowledge and agree that any breach of this Section 12 (Intellectual Property; Non-Infringement; Confidentiality) could cause irreparable harm for which monetary damages would be an inadequate remedy. Accordingly, the non-breaching Party shall be entitled to seek injunctive relief, specific performance, and other equitable relief, in addition to any other remedies available at law or in equity, without the necessity of posting a bond or proving actual damages, and the availability of such relief shall not preclude the pursuit of any other available remedies.

13. GOVERNING LAW

These Terms, including all related quotes, acknowledgments, purchase order, sales orders, supply agreement, invoices, or other instruments, and all matters arising out of or relating thereto, are governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Products sold hereunder.

14. DISPUTE RESOLUTION

- a. The Parties agree that the exclusive means to resolve any dispute, controversy, or claim, whether directly or indirectly related to these Terms or any past or future business relationship between the Parties, shall be as follows:
 1. The Parties shall attempt in good faith to resolve any controversy or claim by promptly conferring in negotiations between representatives of each Party that has the authority to settle any controversy. In advance of such negotiations, the Parties shall exchange written memoranda stating (i) the name and title of the representative of the Party, (ii) the issues in dispute, and (iii) the Parties' respective positions. If the matter is not resolved by the representatives, either Party may initiate non-binding mediation as set forth below.
 2. If the dispute has not been resolved within thirty (30) days after the initial conference of representatives (or such longer period as the Parties may agree), the Parties shall submit the dispute to non-binding mediation administered by (i) the

American Arbitration Association (“AAA”) under its Commercial Mediation Procedures, or (ii) in the case of customers located outside the United States, the International Centre for Dispute Resolution (“ICDR”) under its International Mediation Rules. The mediation shall take place in New Castle County, DE, unless otherwise agreed by the Parties. Each Party shall participate in the mediation in good faith. If the dispute is not resolved through mediation within sixty (60) days of the appointment of the mediator (or such longer period as the Parties may agree), either Party may initiate arbitration as set forth below.

3. Any dispute, controversy or claim which cannot be resolved amicably by the conference of representatives and mediation as described in paragraphs 14(a)(1) and 14(a)(2) above shall be solely and finally settled by arbitration administered by (i) the AAA under its commercial arbitration rules, or (ii) in the case of customers located outside the United States, administered by the ICDR under its International Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitration shall take place before a panel of three (3) arbitrators sitting in New Castle County, DE. Each Party shall select one (1) arbitrator within thirty (30) days of receipt of the demand for arbitration. The two arbitrators so appointed shall nominate the third and presiding arbitrator (the “Chair”) within thirty (30) days of the appointment of the second arbitrator. If either Party hereto fails to appoint an arbitrator, or if the two Party-appointed arbitrators fail to appoint the Chair, within the time periods specified herein, such arbitrator shall, at the request of either Party, be appointed by the AAA or ICDR as the case may be. The decision of the arbitrators shall be in writing and shall be final and binding on the Parties.
- b. The Parties expressly agree that these Terms involve interstate commerce and that the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (“FAA”), shall govern the interpretation, enforceability, scope, and application of the arbitration provisions hereof, notwithstanding any contrary or inconsistent state or local law, rule, or judicial doctrine. Any disputes concerning the interpretation or enforceability of this Section 14 (Dispute Resolution), including without limitation, its revocability or voidability for any cause, the scope of the arbitrable issues, and any defense based upon waiver, estoppel or laches, shall be decided by the arbitrators.
- c. Except as may be required by law, neither Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.
- d. Pursuant to this Section 14 (Dispute Resolution), both Parties expressly waive their right to a jury trial, class action or consolidation, and neither Party shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity. By agreeing to arbitration, the Parties do not intend to deprive any court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings. In any such action: (i) each of the Parties irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the courts of the State of Delaware and the Federal Courts of the United States of America located within the District of the State of Delaware (the “Delaware Courts”); (2) each Party irrevocably waives, to the fullest extent it may effectively do so, any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens or any right of objection to jurisdiction on account of its place of incorporation or domicile, which it may now or hereafter have to the bringing of any such action or proceedings in any Delaware Courts; and (3) each of the Parties irrevocably consents to service of process by first class certified mail, return receipt requested, postage prepaid. Without prejudice to such provisional remedies as may be available under the jurisdiction of a court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award damages for the failure of any party to respect the arbitral tribunal’s orders to that effect.
- e. The arbitrators shall be empowered to award money damages, but shall not be empowered to award punitive damages, exemplary damages, consequential damages, incidental damages or specific performance; provided, however, that this limitation shall not restrict either Party’s right to seek injunctive or equitable relief from a court of competent jurisdiction as expressly permitted under these Terms. Either Party shall be entitled to recover any reasonable attorney’s fees and costs incurred in enforcing this Section 14 (Dispute Resolution). Otherwise, each Party shall bear all of its own costs relating to the arbitration proceeding irrespective of its outcome.

15. WAIVER

If either party hereto waives any default by the other under these Terms or waives the performance of any provision hereof, such waiver will not constitute a waiver of any other default, a waiver on any future occasion or the waiver of the performance of any other provision of these Terms by the other, unless it is in writing, identified as a waiver to these Terms, and signed by an authorized representative of the party waiving such right.

16. CUMULATIVE RIGHTS

All rights and remedies provided in these Terms are cumulative and the exercise by either Party of any right or remedy does not preclude the exercise of any other right or remedy that either Party may now or subsequently have at law or in equity.

17. ASSIGNMENT

Customer may not assign or otherwise transfer all or any portion of these Terms or any of its rights or obligations hereunder without Arclin’s prior written consent, except in connection with a merger or sale of all or substantially all of its assets or equity, provided that any successor or assignee agrees in writing to be bound by these Terms.

18. POLICIES

- a. Customer shall comply with all applicable and relevant anti-bribery laws, export control regulations and economic sanctions as well as any Arclin policy provided to Customer from time-to-time.

- b. As part of the sale of Products, Arclin may collect, access, use, process, store, disclose, and transfer Customer's personal information, including, without limitation, company name, business address, banking, payment and credit information, and the name, title, telephone number, email address, and other business contact details of representatives, employees, agents, and contractors of Customer ("Personal Information"). Arclin may share and transfer such Personal Information to its affiliates and to third-party service providers, distributors, logistics providers, payment processors, insurers, and advisors, including those located in other countries, as reasonably necessary to (i) perform, administer, and enforce these Terms, (ii) complete and support the sale, delivery, and servicing of Products, (iii) conduct credit checks and manage accounts, and (iv) comply with applicable law. Arclin shall process Personal Information in accordance with applicable data protection laws and Arclin's then-current privacy practices.

19. HEADINGS

All headings in these Terms are for convenience and reference only and shall not affect the interpretation of these Terms.

20. SEVERABILITY

If any part of these Terms is or shall become or be declared illegal, invalid or unenforceable by any competent authority having jurisdiction hereof, such part shall be revised or severed in the jurisdiction in question and such illegality, invalidity or unenforceability shall not in any way whatsoever prejudice or affect the remaining parts of these Terms.

21. LANGUAGE

The Parties acknowledge and agree that these Terms and all related documents related hereto shall be written in English and in the event of a conflict between this version and a translated version, this English version shall govern and control.

22. ENTIRE AGREEMENT; AMENDMENT; ADDENDUM

- a. These Terms, including all attached Arclin price sheets, invoices, or agreements, constitute the entire agreement between the Parties regarding the subject matter herein and therein and supersedes all prior and contemporaneous understandings, agreements, representations, warranties, or terms between the Parties, whether written or oral, including any terms on any proposal, acknowledgment, invoice, document or other instrument issued by Customer, unless Arclin and Customer agree in writing that such instrument supersedes, modifies, or supplements these Terms.
- b. These Terms may be modified, superseded, or otherwise altered by Arclin at any time, notwithstanding any terms or conditions that may be contained in any related documents or instrument, and such amended terms shall apply to all future orders of Products once the amended Terms are provided to Customer.
- c. Addendum A to these Terms is applicable solely and exclusively to the extent Customer purchases applicable Products directly from PRE-TEC, a division of The Willamette Valley Company LLC, an Arclin brand. If Customer does not purchase such Products directly from PRE-TEC, then Addendum A shall not apply, shall be void and of no force or effect with respect to Customer, and shall not amend, supplement, or otherwise modify these Terms.

ADDENDUM A

1. PURPOSE

This Addendum A sets forth additional terms and conditions that apply solely to Customer's purchase of applicable Products (hereinafter "PRE-TEC Products") or services (hereinafter "PRE-TEC Services") from PRE-TEC, a division of The Willamette Valley Company LLC, an affiliate of Arclin USA LLC. This Addendum A is incorporated into and forms part of the Arclin Terms and Conditions of Sale ("Terms") solely with respect to the transactions described herein. Except as expressly modified by this Addendum A, the Terms remain unchanged and in full force and effect.

2. ORDER OF PRECEDENCE

In the event of any conflict between this Addendum A and the Terms, this Addendum A shall control solely with respect to the PRE-TEC Products or PRE-TEC Services purchased by Customer from PRE-TEC.

3. WARRANTY

- a. PRE-TEC Products. The PRE-TEC Products are warranted against any defect in materials or workmanship for a period of twelve (12) months from shipping date, provided Customer make a claim in writing within the twelve (12) month warranty period. The exclusive remedy for any defects in materials or workmanship for the PRE-TEC Products shall be the obligation of Arclin to repair or replace any PRE-TEC Products which shall be determined, to the satisfaction of Arclin upon Arclin's examination, to have been thus defective. This warranty is conditioned upon the prepaid return of the PRE-TEC Products claimed to be defective to Arclin F.O.B. Arclin's Eugene, Oregon facility for verification of the claim. If the claim is verified, Arclin at its option and expense, will repair or replace, free of charge, any defective parts. The PRE-TEC Products will be returned to Customer, transportation prepaid. If inspection of the PRE-TEC Products does not disclose any defect in material or workmanship, repairs will be made at a reasonable charge, which charges may include the costs of parts, labor, and transportation.
- b. PRE-TEC Services. If a PRE-TEC Service proves to be defective (as defined below) within 180 days after Arclin performs the PRE-TEC Service and if, in the case of a PRE-TEC Service involving Arclin's processing of products furnished by Customer, Customer returns the PRE-TEC Products to Arclin within that period, F.O.B. Arclin's Eugene, Oregon facility, then Arclin shall, at its option, either re-perform the PRE-TEC Service, at Arclin's expense, or refund to Customer the price that Customer paid to Arclin for that part of the PRE-TEC Service that was defective and shall reimburse Customer for reasonable freight charges incurred in returning the PRE-TEC Products to Arclin. A PRE-TEC Service shall be considered "defective" if it is found by Arclin to have failed to meet the standards in Arclin's industry and if that failure materially impairs the value of the PRE-TEC Services to Customer, except that if (i) Customer shall have approved or furnished to Arclin specifications for the PRE-TEC Services, then the PRE-TEC Services shall not be considered defective to the extent they conform to the specifications, (ii) the PRE-TEC Services will not be defective if they conform to industry accepted tolerances, and (iii) Arclin makes no warranty as to PRE-TEC Services that were not completed by Arclin for any reason. This paragraph sets forth Customer's sole and exclusive remedy for any defect in the PRE-TEC Services.
- c. Limitations. The warranties contained in this Section 3 (Warranty) shall not apply to wear parts or consumable components, or any alleged defect that results from damage, physical abuse, vandalism, misuse, inadequate or improper maintenance, alterations, modifications, additions or repairs made without Arclin's prior written consent, excessive electrical loads, exposure to water or corrosive liquids or other substances, exposure to excessive heat, or use other than as intended by Arclin. Also excluded from Arclin's warranty is any warranty, except as to title, with respect to PRE-TEC Products manufactured and/or designed to Customer's specifications or PRE-TEC Services performed to Customer's specifications, and the Customer shall, at Customer's own expense, (i) defend and hold harmless Arclin from and against any claim, suit or other expense which is asserted or brought against Arclin by reason of its manufacture or sale of such PRE-TEC Products or its performance of the PRE-TEC Services, and (ii) pay to Arclin for any service charges on such PRE-TEC Products or PRE-TEC Services. Arclin shall not be liable for malfunction, damage, or wear caused by the incompatibility of structures, accessories, equipment, or materials not manufactured by Arclin with Arclin's equipment nor will Arclin be liable for the improper design, manufacture, installation, operation, or maintenance of structures, accessories, equipment, or materials not manufactured or supplied by Arclin. EXCEPT AS STATED IN THIS PARAGRAPH, ARCLIN DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY AS TO THE PRE-TEC PRODUCTS OR PRE-TEC SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. Customer is solely responsible for determining the proper application and use of the PRE-TEC Products. Arclin shall not have any tort liability to Customer with respect to any of the PRE-TEC Products or PRE-TEC Services and shall not be liable for consequential, incidental, special, exemplary, indirect or punitive damages that arise from any PRE-TEC Product defect, delay, non-delivery, recall or other breach, including but not limited to such damages arising out of personal injury, death, property damage, lost profits or other economic injury. Arclin shall not be liable to Customer or any other person in tort for any negligent design or manufacture of the PRE-TEC Products, or for the omission of any warning with respect thereto, or for the negligent performance of the PRE-TEC Services. Neither Customer nor any other person may modify or expand this warranty, waive any of the limitations, or make any different or additional warranties with respect to the PRE-TEC Products. No statement to the contrary shall bind Arclin unless made in a writing signed by an authorized officer of Arclin. Customer shall not have any right of rejection or of revocation of acceptance of the PRE-TEC Products or PRE-TEC Services.

4. SOLVENCY AND SECURITY INTEREST

Customer represents that Customer is solvent. Arclin retains title to the PRE-TEC Products until the invoiced price is fully paid in immediately available funds. Arclin retains and Customer grants a security interest in the PRE-TEC Products and all proceeds to secure payment of the price and all other indebtedness now and in the future owing by Customer to Arclin.

5. SAFETY FEATURES

Customer agrees that all safety devices designed and/or suggested by Arclin through a risk assessment and/or PRE-TEC manuals provided at the time of shipping will be properly installed on the PRE-TEC Products and on any equipment which Arclin has performed the PRE-TEC Services. The safety devices will be kept in good condition and repair after commissioning and the Customer shall not remove or change any safety device, warning or operating instructions that Arclin placed on the PRE-TEC Products or other equipment without prior written consent of Arclin. Customer will adhere to ISO 13849 for risk assessment. Additionally, for robotic systems, Arclin will adhere to RIA 15.06 2012 adopted by OSHA. Safety related changes required by applicable governmental rules, regulations or law after execution of the agreement shall be the sole responsibility of Customer and not that of Arclin, and Customer shall pay for increased cost and expense occasioned thereby. Customer agrees to indemnify and hold harmless Arclin for any claim arising from breach hereof.

6. COMPONENTS OF ANOTHER PRODUCT

If any of the PRE-TEC Products constitute parts or components that are to be incorporated or installed in a product that is manufactured or assembled by or for Customer, or if the PRE-TEC Services are performed on any components that are to be incorporated or installed in a such a product, then (i) Customer shall obtain, or cause the end-user of the product to obtain, all permits, inspections and licenses required for installation or operation of the product, (ii) Customer shall cause the product to conform to all applicable laws, ordinances, regulations, codes and standards, and (iii) Customer shall place on the product all safety devices and warnings, and shall furnish to its buyer all operating instructions, that are necessary or desirable to prevent any death, personal injury or property damage from being caused by any use or operation of the product.

7. RESALE

On any resale of the PRE-TEC Products, Customer shall contractually limit its buyer's rights and remedies against both Customer and Arclin to the same extent as Customer's rights and remedies are limited under these Terms.

8. INSECURITY AND ADEQUATE ASSURANCE

If Arclin ever believes in good faith that it has grounds for insecurity as to Customer's performance under a contract with Arclin, then Customer shall provide adequate assurance of due performance within ten (10) days after Arclin demands the assurance, which shall be considered to be a reasonable time. Customer's failure to do so shall be considered to be a repudiation by Customer of the contract and of all other then-existing contracts that provide for Customer to purchase PRE-TEC Products from Arclin ("Outstanding Contracts"). "Grounds for insecurity" include, without limitation, (1) Customer's failure to make a payment to Arclin or to perform another obligation under an Outstanding Contract, (2) Customer's insolvency, (3) a deterioration in Customer's financial condition after an Outstanding Contract was entered into and (4) Customer's failure to provide financial statements and other financial information to Arclin promptly upon Arclin's request. "Adequate assurance of due performance" includes, without limitation, providing a letter of credit or comparable security for all obligations of Customer that then exist or that will arise in the future under all Outstanding Contracts.