



TERMS & CONDITIONS OF SALE

The following Terms & Conditions of Sale (“Conditions”) apply to all sales of goods and services (collectively, “Products”) by Intervala, LLC (“Seller”) to Buyer.

- 1. Exclusive Conditions.** All sales of Products by Seller are governed solely and exclusively by these Conditions and the terms stated in the associated price quotation (“Quotation”) that Seller provides to Buyer, if any, unless Buyer and Seller have executed a separate written agreement intended by the parties to govern all sales of Products by Seller to Buyer (a “Master Agreement”), in which case the Master Agreement will control. Performance by Seller is conditioned on Buyer’s assent to and acceptance of these Conditions. Seller hereby objects to and rejects the terms and conditions of any request for price/quote, purchase order, or other document of Buyer that are inconsistent with, in addition to, or materially alter these Conditions and any associated Quotation issued by Seller.
- 2. Quotations.** Quotations issued by Seller are good-faith statements of intent to hold firm the terms quoted; they are not to be considered offers to sell. All Quotations, whether written or oral, are subject solely to these Conditions. Unless otherwise stated, all Quotations are based upon Seller’s use of standard materials and equipment and are only for the quantities stated. Written Quotations automatically expire 30 calendar days from the date issued, unless stated otherwise in the quotation or sooner withdrawn by Seller.
- 3. Prices.** Prices shall be (a) as applicable on the date of delivery and (b) net of shipping costs and any applicable taxes, duties, tariffs, and similar charges, which shall at all times remain the sole responsibility of Buyer. If Buyer claims entitlement to tax exemptions, it shall provide to Seller appropriate exemption certificates prior to delivery.
- 4. Shipment, Delivery and Claims.** Unless otherwise agreed in writing by both parties, delivery shall be EXW (Incoterms 2020) Seller’s dock. Title and risk of loss shall pass to Buyer upon placement of the Products with the carrier. Seller will exercise reasonable efforts to make delivery as scheduled; however, Seller will not be liable for any loss or damage or for any failure to deliver or delays in delivery caused by the common carrier. Seller shall not be bound to ship any Product for which Buyer has not given shipping instructions. Seller shall ensure the Products are packed in a manner reasonably designed to avoid damage in transit. Packing, handling, and loading costs of Seller are included in Seller’s price and Buyer will pay no additional charge therefor. In the absence of a specified date for shipment or performance detailed in a purchase order, the time for Seller’s shipment or performance shall be a reasonable time. Unforeseeable contingencies beyond Buyer’s control that affect its ability to receive and use the Products ordered shall constitute valid ground for suspension of shipment of such Products for up to a period of 30 days, upon written notification to Seller, and any such suspension of shipment shall be without penalty or cost to Buyer during that 30-day period. After such 30-day period, Seller may ship and invoice Buyer for such Products unless Buyer and Seller have agreed other arrangements in writing.
- 5. Inspection and Acceptance.** Prior to delivery, Seller will inspect and test Products pursuant to the testing methods required by Buyer and accepted in writing by Seller. Seller shall maintain inspection records according to its internal recordkeeping policies or such other duration as the parties may agree and, upon request, shall provide copies to Buyer. Products will be packaged and labeled by Seller in accordance with Buyer specifications. Buyer shall have ten (10) days after receipt of the Products in which to inspect the Products. Buyer may reject any Products not meeting contract requirements by giving notice to Seller setting forth the basis therefor and holding the Products for disposition by Seller. Products not timely rejected shall be deemed accepted. Destructive tests of the Products by Buyer to determine acceptability shall be permitted only by written agreement between Seller and Buyer. After acceptance, disposition of defective Products shall be subject to the Limited Warranty provisions of these Conditions.
- 6. Invoicing and Payment.** Seller shall invoice for goods on date of shipment, or if Seller is storing goods for later shipment, upon completion of assembly or manufacture. Seller shall invoice for services on the earlier of the date of completion or the delivery of applicable deliverable(s), or such other period Seller expressly agrees in writing. Terms are NET cash or cash equivalent thirty (30) days from date of invoice. Buyer shall not exercise any right of setoff, common law or otherwise, against Seller. Seller will establish new customer credit terms based on information provided by Buyer as well as any information in the public domain. Credit terms are subject to periodic review and can be adjusted at any time, as Seller deems appropriate.
- 7. Limited Warranty; Disclaimer; Exclusive Remedy.**
 - (a) **Limited Warranty.** Seller warrants that (i) it will deliver good title to the Products, free and clear of liens, claims and encumbrances; (ii) the Products will be free from defects in workmanship under normal use and service for a period of twelve (12) months commencing on the date of shipment; and (iii) the Products will be in material compliance with the written specifications provided by Buyer and accepted by Seller. Rights under this limited warranty are not assignable. Any abuse, misuse, unauthorized repair, modification or adjustment of a Product voids the warranty set forth herein.
 - (b) **Warranty Performance.** To obtain performance under this limited warranty, Buyer must notify Seller of the warranty claim and deliver the Product to Seller at Seller expense; however, Seller shall be responsible for only those delivery costs associated with the return of the Product from Buyer’s own location. If the defect is covered by this limited warranty, Seller will use reasonable efforts to repair or replace the Product and return it to Buyer, at Seller’s cost. If the defect is not covered by this limited warranty, Seller will so notify Buyer and advise Buyer of the cost to repair or scrap the Product, and Buyer will direct Seller whether to repair or scrap the Product within 10 days of Seller so notifying Buyer. Prior to returning any Product or component thereof to Seller for warranty service or inspection, Buyer shall ensure the Product or component does not contain and is not contaminated by any hazardous material, as that term is defined in 49 CFR § 171.8, or by any

infectious substance, biological product, regulated medical waste, sharps, or toxin, as those terms are defined in 49 CFR § 173.134 (collectively, "Hazards"). Buyer hereby represents and warrants that all returned Products and components are free from all Hazards.

(c) Defective Materials. In the event a returned Product is defective as a result of defective material, as determined by Seller, Seller will if practicable repair the Product, provided that Seller shall be entitled to invoice Buyer for the fully-burdened cost of raw materials, components, and labor used in the repair. If the Product is not reasonably repairable, Seller shall have no further liability. To the extent the defective component is covered by a supplier and/or manufacturer warranty, Seller will make reasonable efforts to recover from the supplier (unless Buyer is supplier) and/or manufacturer any losses sustained by Buyer and Seller as a result of the defect. Seller will share any such recovery with Buyer on an equitable basis.

(d) Disclaimer. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 7(a), SELLER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS AND HEREBY DISCLAIMS THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF NON-INFRINGEMENT. SELLER MAKES NO WARRANTY AND DISCLAIMS ALL WARRANTIES WHATSOEVER RELATED TO DESIGN AND ENGINEERING SERVICES AFTER BUYER ACCEPTS ANY SUCH SERVICES OR DELIVERABLE RESULTING THEREFROM.

(e) Exclusive Remedy. BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY DEFECTIVE PRODUCT OR BREACH OF THIS LIMITED WARRANTY IS, AT BUYER'S OPTION, THE REPAIR OR REPLACEMENT OF THE DEFECTIVE PRODUCT OR THE RETURN OF THE PURCHASE PRICE BUYER PAID FOR THE DEFECTIVE PRODUCT.

8. Components and Raw Materials.

(a) Purchase Price. The prices for components and raw materials ("Materials") will be the prices listed in the most recent Quotation Seller provides to Buyer, adjusted at the time Seller places an order for Materials. Both parties acknowledge that volatility in the Materials market may cause Materials prices to increase notwithstanding that Seller purchases Materials in volumes exceeding previously quoted amounts. Seller will use commercially reasonable efforts to obtain the lowest prices for Materials based on Buyer's order requirements.

(b) Purchase Price Variance. Purchase Price Variance (i.e., the difference between the quoted per-unit price of a Material and the actual per-unit price of that Material) ("PPV") will be calculated at the time Seller places its order for that Material. Buyer accepts the PPV for any Material where the PPV of that Material does not exceed fifteen percent (15%) of the quoted per-unit price of that Material. If the PPV exceeds fifteen percent (15%) of the quoted per-unit price of a Material, Seller will obtain Buyer's prior acceptance in writing (including via email) before purchasing that Material. Buyer agrees to issue a revised purchase order for Products that reflects the PPV, or to issue a separate purchase order for the PPV, as Buyer and Seller elect, for all PPV accepted by Customer.

(c) Prepayment. Seller will employ Materials purchasing strategies designed to ensure it has sufficient Materials on hand to meet Buyer's agreed Product delivery dates. Buyer agrees that if Seller cannot meet a delivery date because Materials are unavailable or delayed due to no fault of Seller, Buyer will issue a purchase order for Seller's fully burdened cost of Materials (i.e., all direct and indirect costs of Seller relating to the Materials, determined in accordance with generally accepted accounting principles) that Seller has on-hand or for which Seller already has paid its supplier. Seller will issue an invoice against this purchase order, which Buyer will pay within thirty (30) days of the invoice date.

(d) Prepayment Credit. The amount Buyer prepays for Materials pursuant to these Conditions will be credited against the purchase price of the Products on a pro rata basis, based on the relationship between the number or volume of Materials for which Buyer prepaid Seller and the number of Products ordered.

(e) Excess Materials.

(i) Seller's orders of Materials may result in Materials that Seller does not require to supply Products pursuant to open purchase orders ("Excess"). Excess may result from supplier-imposed minimum purchase quantities, changes in order quantities, order termination, Product revisions, Materials obsolescence, non-cancelable/non-returnable Materials, and last time buys. Quoted assembly quantities and Excess are interrelated; deviation from the exact assembly quantity quoted will have an impact on the overall Excess exposure. Seller will obtain Buyer's consent before purchasing Materials pursuant to a Materials purchasing strategy that Seller reasonably believes will cause the total value of Excess resulting from that purchasing strategy to exceed five percent (5%) of the total value of Materials purchased pursuant to that purchasing strategy.

(ii) Buyer is responsible for Seller's fully burdened cost of all Excess. All Excess will be subject to a ten percent (10%) handling fee. Payment and delivery terms applicable to Products will apply to all Excess. Seller may invoice Buyer for Excess upon its creation, which means for Excess created with Buyer's consent, on the date Seller receives the Excess from its supplier, and for Excess arising from Product revisions, order change or termination, or any other reason, on the date the Material is no longer needed under open Product purchase order(s).

(iii) Seller will use commercially reasonable efforts to mitigate Excess exposure to Buyer, when possible, by: (1) cancelling outstanding purchase orders for Materials, (2) returning Materials to suppliers, (3) using Materials for other customers, and (4) if requested by Buyer, attempting to sell Materials on the broker market, provided that Seller will be entitled to twenty percent (20%) of the proceeds of all such sales to cover its administrative expenses. If fees are assessed by suppliers for cancellations or returns, Seller will obtain prior approval from Buyer prior to incurring such fees on behalf of Buyer.

9. Compliance with Buyer's Specifications. Seller assumes no liability for errors or omissions in any drawings and specifications provided by Buyer, including errors or omissions made by Seller in the exercise of due care in the interpretation of any such drawings and specifications, irrespective of any review, use, or incorporation of such specifications in any Product. Without limiting the applicability or generality of the foregoing sentence, if Seller believes that Buyer's specifications may present issues with the assembly or manufacture of the Products or that the specifications are incomplete in any way, Seller will so notify Buyer and, if services to resolve the issues or incompleteness are appropriately performed by Seller, provide a price quote for engineering or other services designed to resolve the issues or incompleteness. If Buyer does not resolve the issues or incompleteness Seller has identified, whether by contracting with Seller for their resolution or by other means, Seller may terminate all affected purchase orders without liability to Buyer, and such termination will be treated as a cancellation by Buyer pursuant to these Conditions. Intervala manufactures goods in accordance with and pursuant to industry-accepted interpretations and standards known to Seller at the time of manufacture or performance. If Buyer requests manufacturing services that are outside of normal manufacturing or engineering interpretations or standards, Seller will have the right to seek clarification from Buyer regarding the request, requote the price for the manufacturing services, and/or cancel the purchase order without liability to Buyer.

10. Changes and Cancellations.

(a) Changes. Buyer may at any time notify Seller of any changes in whole or in part to any one or more of the following requirements relating to the Product: (i) shipping or packing instructions; (ii) shipment destination; (iii) Product design, including drawings, specifications, and/or statement of work; (iv) method or manner of performance of the work; and (v) any property to be provided by Buyer. Seller shall perform changes ordered by Buyer, provided the change is communicated in writing by a person authorized to make such change and the parties have agreed to any adjustment in price and lead times related to the change. In the event that Buyer orders a change, including but not limited to changes in the master bill of materials and/or approved manufacturers list, and such change results in an increase or decrease in the cost of, or time required for, the performance of any aspect of Seller obligations covered by this Agreement, an equitable adjustment shall be made to the pricing and/or delivery schedule to reflect such change(s), and the appropriate price and schedule documents shall be modified accordingly in writing. In all cases, Buyer shall be responsible, among other things: (iv) for all fully burdened costs related to obsolescence, labor associated with the change, and additional set-up, (v) to accept delivery at the Quoted price of all finished Product becoming Excess, and (vi) to accept responsibility for other Inventory becoming Excess, as a result of any such required change.

(b) Cancellations. Performance by Seller is not subject to cancellation unless Buyer obtains specific written approval from Seller in advance of shipment of the Products. If Seller performance is cancelled, Buyer shall pay Seller reasonable cancellation charges, as invoiced by Seller, including but not limited to completed Product at the contract rate, work in process, material, components, labor, and overhead expenses incurred or allocated by Seller in performing or preparing to perform under the purchase order, Excess, and reasonable profit.

11. Confidential and Proprietary Information.

(a) Confidential Information. Each party hereby acknowledges that all written information in whatever form and all oral information, provided such oral information is reduced to writing within thirty (30) days of disclosure, including but not limited to, customer lists, supplier lists, specifications, drawings, manufacturing procedures and processes, literature, price lists, assistance, know-how and all data, supplied hereunder or prior to the date of the Order, by a party (the "Discloser") or any affiliate of the Discloser shall be considered "Confidential Information" and: (i) the property of Discloser, and (ii) confidential to Discloser. Buyer hereby acknowledges that proprietary information including but not limited to, customer lists, supplier lists, specifications, drawings, manufacturing procedures and processes, literature, price lists, assistance, know-how, and all other data furnished by Seller and not purchased by Buyer under a specific Purchase Order line item, are Confidential Information of Seller.

(b) Obligations. The receiving party ("Recipient") agrees to hold all such information in trust and confidence, use at least reasonable care to protect the confidentiality of such information, and use such information solely in connection with the Order. Except as may be authorized by Discloser in writing, Recipient agrees not to disclose any such information, by publication or otherwise, to any person, except that Seller may share with its suppliers Buyer's Confidential Information to the extent necessary to obtain lead times and prices. Recipient shall, at its cost and expense, immediately return all information provided herein, including copies, reproduction or other embodiments thereof, as authorized herein, upon request of Discloser or upon termination or expiration of the Order, except that Recipient will not be required to destroy information residing on archival or disaster recover media if that media and the information it contains is subject to restricted access, routine overwriting, and the confidentiality obligations of these Conditions. If Recipient is required to disclose Confidential Information of the Discloser by administrative or judicial action or process, Recipient may disclose only the Confidential Information of Discloser that Recipient is legally obligated to disclose, provided that Recipient notifies Discloser of such action or process with sufficient time to give Discloser the opportunity to seek legal remedies to maintain the confidentiality of the Confidential Information, unless the Recipient is prohibited by law from providing notice.

(c) Exclusions. Anything herein to the contrary notwithstanding, Recipient's obligations of non-disclosure and non-use under the Order shall not apply to any information which it can demonstrate falls within any of the following categories: (i) as of the date hereof is already known by Recipient, without any obligation of confidentiality; (ii) after the date hereof, is obtained by Recipient from a third party lawfully in possession thereof and not in violation of any contractual or legal obligation to Discloser with respect thereto; (iii) is or becomes part of the public domain through no fault of Recipient; or (iv) after the date hereof is independently ascertained by Recipient or developed for Recipient by its employees without reliance directly or indirectly on Discloser's relevant information.

(d) Confidentiality Agreement. If Buyer and Seller have executed a confidentiality, non-disclosure, or similar agreement, or if there are provisions in a Master Agreement, setting out the rights of obligations of Buyer and Seller regarding the proprietary or confidential information of Buyer and/or Seller (a "Confidentiality Agreement"), the terms of that Confidentiality Agreement will control; provided, however, that if the Confidentiality Agreement only protects Buyer's confidential or proprietary information, the terms of this Section 18 will govern the disclosure and use of Seller's Confidential Information.

12. Insurance. Buyer shall, at its own expense, maintain and carry in full force and effect, at least the following types and amounts of insurance coverage: (a) occurrence-based commercial general liability with limits no less than \$1,000,000 per occurrence, \$3,000,000 aggregate, including bodily injury and property damage, products and completed operations, advertising liability, and contractual liability coverage; (b) worker's compensation in amounts required by law; and (c) umbrella (excess) liability for the commercial general liability policy with limits no less than \$2,000,000. The policies required by this section shall: (w) be issued by insurance companies with at least a Best's rating of at A- VIII; (x) provide that such insurance be primary and any insurance of Seller be excess and noncontributory; (y) name Seller and its affiliates as additional insureds; and (z) waive any right of subrogation against Seller and its affiliates. Buyer shall provide to Seller not less than thirty (30) days prior notice before any cancellation or reduction in coverage of the insurance required by this Section, and Buyer shall provide to Seller certificates evidencing such coverage and the declaration page of all such insurance policies upon request.

13. Force Majeure. Except for failure to pay money owed for Products or pursuant to these Conditions, neither Buyer nor Seller will be liable for any failure or omission in the performance of any provision of this Agreement if the failure is caused by or arises directly or indirectly, from events outside the reasonable control of the party affected, including but not limited to acts of God, acts or omissions of the other party, government orders, legislation, or regulations, acts of terrorism, embargoes, fire, storm, floods, strikes, labor trouble, wars, riots, failure of carriers or suppliers to transport or furnish materials, or inadequacy or failure of supply.

14. Limitation of Liability. EXCEPT FOR LIABILITY CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT

WILL SELLER BE LIABLE: (a) FOR LOST PROFITS, LOSS OF BUSINESS, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR OTHER INDIRECT DAMAGES WHATSOEVER, IRRESPECTIVE OF WHETHER SUCH DAMAGES ARE FORESEEABLE, WHETHER SELLER WAS MADE AWARE OF THE POTENTIAL FOR SUCH DAMAGES, OR THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE CLAIMED; AND (b) IN AN AMOUNT EXCEEDING THE PRICE OF THE PRODUCT OUT OF WHICH THE CLAIM AROSE.

15. Suspension and Termination of Performance. Seller may suspend performance without liability to Buyer if any payment Buyer owes to Seller is more than 15 days past-due, and Seller will have no obligation to recommence performance until all overdue amounts are paid in full. Either party may terminate the applicable purchase order if the other party : (a) breaches any obligation it owes to the other party in connection with that purchase order or under these Conditions and fails to cure that breach within 30 days of receiving notice of that breach from the other party; (b) files or has filed against it a petition for relief under the US Bankruptcy Code; (c) makes a general assignment for the benefit of its creditors; or (d) has appointed a receiver, custodian, or similar agent to take charge of or sell any material portion of its property or business.

16. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in these Conditions 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.

17. Use of Products; Compliance with Law. Buyer assumes all risk and liability related to the use of the Products, whether used independently by Buyer or in combination with other materials. Buyer shall obtain all necessary permits and authorizations. The parties shall comply with all applicable laws, regulations and ordinances. Buyer shall comply with all export and import laws governing the shipment of Products. Buyer assumes all responsibility for shipments of Products requiring any government export or import clearance.

18. Governing Law; Jurisdiction. These Conditions and all acts or omissions of the parties related to these Conditions or any Product shall be governed exclusively by the laws of the Commonwealth of Pennsylvania, without regard to its or any other jurisdiction's conflicts of laws principles that may cause the law of another jurisdiction to govern. The United Nations Convention on the International Sales of Goods does not apply to the Order. The federal and state courts located in Allegheny County, Pennsylvania shall have sole and exclusive jurisdiction over any dispute arising from these Conditions, any Product, or any act or omission of either party related to these Conditions or any Product, and each party hereby irrevocably consents and submits to the exclusive jurisdiction of these courts and agrees not to argue or maintain that such courts are improper or inconvenient. In no event shall any action be commenced against Seller more than one year after the cause of action with respect to which the claim is made has accrued.

19. Notices. All notices referenced in or required by this Agreement shall be in writing and delivered via hand delivery, nationally recognized overnight courier, or United States certified or registered mail, in all cases costs prepaid and proof of delivery required, addressed to Seller at: Intervala, LLC, Attn: CFO, 1001 Technology Drive, Suite 1181, Mt. Pleasant, PA 15666, and to Buyer at the address listed on Buyer's purchase order.

20. Miscellaneous. These Conditions shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. If any portion of these Conditions shall for any reason be held by a court of competent jurisdiction to be invalid and unenforceable, the valid and enforceable provisions will continue to be given effect and bind the parties hereto. Neither party may assign any of its rights or obligations hereunder without the express consent of the other, which the other party will not unreasonably condition, delay or withhold. These Conditions contain all legal terms between the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements, representations, warranties, and understandings that exist or may have existed between the parties regarding such subject matter. There are no oral statements, representations, warranties, undertakings or other agreements between the parties. These Conditions may not be amended or modified in any respect except by written instrument executed by both parties that expressly states it is an amendment to these Conditions.

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