

**ALAFACURE, LLC D/B/A ALABAMA DYNAMICS STANDARD CONDITIONS OF SALE**

1. ENTIRE AGREEMENT: Each party agrees that all sales of products ("Goods") by Alafacure, LLC, d/b/a Alabama Dynamics ("ADI") to Buyer are governed by these Standard Conditions, which supersede any other terms of either party. These Standard Conditions and the order for products from Buyer and agreed by ADI ("Order") or other contract documents to which they apply constitute the entire agreement between the parties with respect to Goods ("Agreement"). All references to Buyer's specifications and similar requirements are only to describe Goods covered by the Order and no warranties or other terms will have any force or effect. No other terms of Buyer, no modification, amendment or waiver to this Agreement and no cancellation, change or return of any Order under this Agreement will be binding on ADI until agreed in writing by its authorized representative. ADI's acceptance of Orders, oral or written, and/or its delivery of Goods to Buyer is based on the express condition that Buyer agrees to all these Standard Conditions.

2. PRICES: All prices and quotations furnished by ADI are firm only through the period shown on the face of the quotation, Order, or invoice. Prices do not include state or local sales, use or similar taxes based on or measured by sales or use, which taxes, whenever imposed, will be payable by Buyer and added to the quoted prices unless Buyer provides ADI at the time of sale with all tax-exemption certificates required by taxing authorities.

3. PAYMENT TERMS: Payment terms are as described on the face of ADI's quotation document. Overdue accounts are subject to a service charge of 1-1/2% per month or 18% per annum on any unpaid balance. Failure to make payments when due is basis for ADI to take legal action, and Buyer agrees to pay interest from the date due and all costs of collection, including but not limited to reasonable attorneys' fees.

4. SHIPMENTS: Unless otherwise quoted, all shipments are EXW common carrier ADI's plant, Calera, Alabama (per Incoterms 2020). Risk of loss and title pass to Buyer on delivery of Goods to transportation companies. Claims for shortage or damage in transit must be made by Buyer against the carrier. All inspection fees by outside sources are for Buyer's account. Unless specifically quoted otherwise, all non-destructive testing fees are for Buyer's account.

5. CANCELLATION AND DEFERRED DELIVERY: Orders cannot be cancelled, nor can deliveries of Goods made up or in process be deferred beyond the original date specified, except with ADI's written consent and on terms which will indemnify ADI against all loss.

6. CONTRACTS: Orders resulting from quotations become contracts only upon issuance of ADI's formal factory acknowledgement. Stenographic and clerical errors will be subject to correction.

7. MATERIAL FURNISHED BY BUYER: Prices and deliveries of Goods for which Buyer furnishes material, patterns or tools are based on such items being received at a satisfactory time, in proper quantities and condition, and with transportation charges prepaid to ADI's plant. If ADI finds serious defect in material or items furnished by Buyer, ADI will notify Buyer and charge for all expenses incurred up to discovery of the defect. If ADI finds a minor defect which ADI can repair, ADI reserves the right to make an extra charge to cover the necessary repair work. ADI will not be responsible for any loss of Buyer's material or other items by fire, tornado, flood, riot, or other occurrence beyond its reasonable control.

8. WARRANTY AND LIABILITY: ADI agrees to correct any defect in workmanship or material resulting from its act or omission which may develop under proper and normal use of Goods during the period of one hundred eighty (180) days from the date of shipment, by repair or by replacement EXW ADI's factory of the defective part. In no event will ADI have any responsibility as to goods supplied by others or defects resulting from design. Claims that Goods are defective must be filed in writing within thirty (30) days from receipt of such Goods. ADI then has the option of reinspection at Buyer's plant or ADI's plant before allowing or denying the claim. No Goods may be returned without first obtaining ADI's written permission. Defects which ADI is willing to correct or which do not impair satisfactory service will not be a cause for rejection. Correction of defects to the extent and under the conditions stated above will constitute fulfillment of all of ADI's liability with respect to defects. ADI will incur no responsibility, expense or liability for repairs or alterations to Goods made without ADI's written consent. *The warranties in this Section are exclusive and in lieu of all other warranties, express or implied by law or statute or arising from trade usage or course of dealing. There is no implied warranty of merchantability or fitness for a particular purpose.*

9. FORCE MAJEURE: In no event will ADI be liable for loss, damage, or delay resulting from causes beyond its reasonable control, including but not limited to: fire; strike; civil or military authority; actions or inactions by any government; insurrection or riot; embargoes; pandemic; transportation shortages; wrecks or delays in transportation; delays of suppliers; or inability to obtain necessary labor or materials. ADI will not be liable for delay in delivery unless otherwise expressly agreed in writing.

10. PATENT OR TRADEMARK INFRINGEMENT: If the Goods are to be prepared for manufacture according to Buyer's specifications, Buyer will indemnify, defend, and hold harmless ADI against all claims and liability for patent or trademark infringement arising from such preparation or manufacture.

11. NO CONSEQUENTIAL DAMAGES: *In no event, whether arising from breach of contract, warranty, tort (including negligence), strict liability or otherwise will ADI be liable for any punitive, special, incidental, or consequential damages, including but not limited to lost profits, loss of use of Goods or other property or equipment, damage to other property, cost of capital, cost of substitute goods, downtime, or claims of Buyer's customers for any of those types of damages.*

12. GOVERNING LAW; CONSENT TO VENUE; DISPUTE RESOLUTION: This Agreement and all rights and obligations hereunder will be governed by and construed in accordance with the laws of the State of Alabama, without regard to its rules concerning conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. All disputes, claims or controversies ("Dispute") between ADI and Buyer arising out of or relating to this Agreement, including but not limited to Disputes based on or arising from an alleged tort, will be resolved by binding arbitration in accordance with Title 9 of the U.S. Code and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Disputes will be arbitrated in Birmingham, Alabama. Defenses based on statutes of limitation and similar doctrines will be applicable in any such proceeding, and commencement of an arbitration proceeding under this Agreement will be deemed commencement of an action for such purposes. The parties will select arbitrators in accordance with the Commercial Arbitration Rules of the AAA. ADI and Buyer will each designate one arbitrator knowledgeable in the subject matter of the Dispute, and the two arbitrators so designated will select a third arbitrator. Notwithstanding the foregoing, each party reserves the right to resolve or bring any Dispute in a court of competent jurisdiction in the state or federal courts of Alabama and the parties irrevocably agree that, except when the Dispute is arbitrated, the exclusive venue for all Disputes between the parties will be the state and federal courts of Alabama, to which jurisdiction each party irrevocably submits. Each party waives any objection or defense that it is not personally subject to jurisdiction of the state and federal courts of Alabama; that venue of the action is improper; and that the action, suit, or proceeding is brought in an inconvenient forum. In addition to any other mode of service of process authorized by law, each party consents to service of process by registered or certified mail.

13. COMPLIANCE WITH LAWS: Each party represents and warrants that it will comply in its performance hereunder with all applicable federal, state and local laws, codes, regulations, orders and ordinances, including but not limited to all applicable: equal employment opportunity laws, regulations, and requirements, and laws and regulations prohibiting discrimination against any person because of any status protect by applicable laws in any term or condition of employment; and laws and regulations addressing human trafficking and slavery. Each party agrees to indemnify, defend, and hold harmless the other party and its employees from and against all claims, demands, costs, penalties, and fines arising in connection with any alleged breach by the indemnifying party of this Section.

14. MISCELLANEOUS: No waiver of any provision, right or remedy in these terms, including the terms of this Section, is binding on, or effective against, a party unless expressly set forth in writing and signed by such party's authorized representative. Each party agrees that no right or remedy provided in this Agreement can be waived by course of dealing or performance or by trade usage. Waiver of a breach will be limited to the specific breach so waived and will not be construed as a waiver of any subsequent breach. Buyer will not assign any Order without ADI's prior written consent and any attempted assignment in violation of this Section is void. However, these terms and conditions are enforceable against Buyer's successors and permitted assigns. If any provision or part of a provision is held by a court of competent jurisdiction to be contrary to law or public policy, the remaining provisions will remain in full force and effect.

By signing below, each of Buyer and Seller agree to all of these Terms and Conditions of Sale as of \_\_\_\_\_, 20\_\_.

**BUYER COMPANY NAME:** \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ALAFACURE, LLC, D/B/A ALABAMA DYNAMICS**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_