



TERMS AND CONDITIONS OF SALE

1. Entire Agreement/Orders.

(a) This agreement (the "Agreement") is between Spiroflow Holdings, Inc., a North Carolina corporation and Spiroflow Systems, Inc., a North Carolina corporation (collectively referred to as "**Spiroflow**" or "**Seller**") and the buyer named in the applicable Formal Proposal ("**Buyer**"). No order for Spiroflow's products ("**Products**") or services ("**Services**") shall be binding upon Spiroflow until acknowledged in writing by Spiroflow through a written order acknowledgment ("**Order Acknowledgment**"). The Order Acknowledgment and these Terms and Conditions of Sale (the "**Terms**") constitute the Agreement between Spiroflow and Buyer. Seller and Buyer are each a "Party" and, collectively, the "Parties."

Check box if Services are to be provided to Buyer. For the avoidance of doubt, if the foregoing box is not checked, the Parties hereto acknowledge and agree that no Services are being rendered by Spiroflow to Buyer in connection with the sale of Products covered by these Terms, and Spiroflow shall have no corresponding obligations with respect to any Services (including any warranties for any services).

Except to the extent that the foregoing box is checked and Spiroflow's Order Acknowledgment expressly and unambiguously identifies technical assistance or field services included in pricing set forth in the Order Acknowledgment, the pricing set forth in the Order Acknowledgment does not include Services (including without limitation installation or commissioning).

(b) Any purchase order, offer or counter-offer made by Buyer before or after Spiroflow's Order Acknowledgment is rejected and all documents exchanged prior to Spiroflow's Order Acknowledgment are merely preliminary negotiations and not part of any agreement between the parties. In no event will Spiroflow be deemed to have in any way changed, enlarged or modified its liabilities or obligations as fixed by these Terms including, without limitation, situations in which Spiroflow satisfies an order submitted on Buyer's own purchase order form.

(c) Buyer shall have been deemed to agree to these Terms upon the earlier of acceptance of Spiroflow's Formal Proposal, issuance of a purchase order to Spiroflow, receipt of an Order Acknowledgment, or acceptance of delivery of the Products or Services.

2. Delivery of Products and Performance of Services.

(a) The Products will be delivered within a reasonable time after Spiroflow's delivery of a signed Order Acknowledgment, subject to availability of finished Products. Any stated delivery schedule or date set forth in the Order Acknowledgment or otherwise is an estimate only and not a commitment to deliver on specific dates. Delivery estimates are calculated from Spiroflow's Order Acknowledgment date based on information available to Spiroflow at the time of Order Acknowledgment, are approximate and do not constitute a guarantee. Receipt of advanced payment by Spiroflow does not constitute Order Acknowledgment nor the beginning of the delivery period. Spiroflow shall not be liable for any delays, loss, or damage in transit, and delay in delivery shall not relieve Buyer of its obligations to accept Products.

(b) Unless otherwise agreed in writing by the parties, Spiroflow shall deliver the Products to the location set forth in the Order Acknowledgment (the “**Delivery Point**”) using Spiroflow’s standard methods for packaging and shipping the Products.

(c) Spiroflow may, in its sole discretion, without liability or penalty, make partial shipments of Products to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer’s purchase order.

(d) If delivery is delayed or deferred by Buyer beyond the scheduled date, payment shall be due in full when Spiroflow is prepared to ship the Products or perform the Services. The Products may thereafter, at Spiroflow’s option, be stored at the risk and expense of Buyer. If the Buyer is required to take delivery of any Products from any Spiroflow facility, Spiroflow will notify Buyer when the Products or any portion of the Products are available for receipt by Buyer or its freight carrier and Buyer or its designated freight carrier shall take delivery within 5 calendar days of receipt of notice. If Buyer does not take delivery of the Products identified in the notice, then Spiroflow shall have the right, at its election, to ship the Products or any portion thereof directly to Buyer at Buyer’s sole expense or, alternatively, to store the Products subject to handling and storage fees reasonably determined by Spiroflow.

(e) Spiroflow shall use reasonable efforts to meet any performance dates to render the Services (if any) specified in the Order Acknowledgment, and any such dates shall be estimates only and do not constitute a guarantee.

(f) With respect to any Services, Buyer shall (i) cooperate with Spiroflow in all matters relating to the Services and provide such access to Buyer’s premises, and such office accommodation and other facilities as may reasonably be requested by Spiroflow, for the purposes of performing the Services; (ii) respond promptly to any Spiroflow request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Spiroflow to perform Services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Spiroflow may request to carry out the Services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start. Notwithstanding anything to the contrary contained in this Agreement, if Services are to be provided hereunder, Spiroflow may, from time to time change the Services without the consent of Buyer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Order Acknowledgment.

(g) Shipments, deliveries, and/or performance of Services shall at all times be subject to the approval of Spiroflow’s credit department and in case Spiroflow shall have any doubt as to Buyer’s responsibility, Spiroflow may decline to make any further shipments and provide further Services hereunder, except upon receipt of satisfactory security or payment in advance.

3. Non-Delivery.

(a) Spiroflow shall not be liable for any non-delivery of Products unless Buyer gives written notice to Spiroflow of the non-delivery within 5 days of the date when the Products would in the ordinary course of events have been received.

(b) Any liability of Spiroflow for non-delivery of the Products shall be limited to replacing the Products within a reasonable time or adjusting the invoice respecting such Products to reflect the actual quantity delivered.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 3 are Buyer's exclusive remedies for any non-delivery of Products.

4. Shipment/Risk of Loss. Unless otherwise noted, Delivery of the Products shall be made FCA Spiroflow's manufacturing location Incoterms® 2020 and do not include installation, start-up services or any goods or services not specifically described in the applicable Formal Proposal. Title and risk of loss pass to Buyer at the time that Products leave Spiroflow's manufacturing location. In the case of loss or damage to goods in transit, Buyer agrees to make all claims against the carrier and not hold Spiroflow liable, and in all cases the Buyer agrees to make payment for goods in full and on time.

5. Buyer's Acts or Omissions. If Spiroflow's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees (including, without limitation, as a result of Buyer's failure to make timely payments, Buyer's delays in approving drawings, or Buyer's failure to comply in a timely manner with its obligations under Section 2(f)), Spiroflow shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay, and any delivery or performance schedules for Products and/or Services shall be automatically adjusted to reflect any such prevention or delay.

6. Inspection and Rejection of Nonconforming Products.

(a) Upon receipt, Buyer shall inspect the Products. Notice of all claims, including claims for alleged defective goods or Nonconforming Products must be made within (i) 20 days of receipt; or (ii) prior to the installation of the Products into any other products or systems, whichever period is shorter (the "**Inspection Period**"). If no notice of claim is made within the Inspection Period, the Products shall be deemed to be irrevocably accepted by Buyer and all claims against Spiroflow for defective goods or Nonconforming Products are waived and forever barred. "**Nonconforming Products**" means: (i) product shipped is different than identified in the Order Acknowledgment; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Buyer timely provides Spiroflow notice in writing and demonstrates Nonconforming Products, Spiroflow shall, in its sole discretion, (i) replace Nonconforming Products with conforming Products, or (ii) credit or refund the Price for Nonconforming Products, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Spiroflow shall not accept, and Buyer shall not return, any Nonconforming Products without Spiroflow's prior written authorization.

(c) Buyer acknowledges and agrees that the remedies set forth in Section 6(b) are Buyer's exclusive remedies for the delivery of Nonconforming Products. Except as provided under Section 6(b), all sales of Products to Buyer are made on a one-way basis and Buyer has no right to return Products purchased under this Agreement to Spiroflow.

(d) A per diem charge of .05% of the purchase order value of the involved equipment or a per diem charge of \$50.00 per day, whichever is greater, will be charged for delays created by Buyer to schedule customer inspection or acceptance testing. The charge will be computed commencing 2 weeks after Buyer has been notified of a specific date for inspection or test. Notwithstanding the forgoing, if final inspection of equipment is required that includes testing with material, a \$250 per diem charge will apply.

7. Price.

(a) Until the Parties have executed an Order Acknowledgment, all prices are subject to change. Written Formal Proposal's expire 14 calendar days from the date of the Formal Proposal unless specified otherwise. Verbal proposals or quotations are non-binding on Spiroflow. Buyer shall purchase the Products and, if applicable, Services from Spiroflow at the price (the "**Price**") set forth in the Order Acknowledgment. Notwithstanding the foregoing, the Price shall be subject to adjustment on account of specifications, quantities, shipping arrangements or other changes in the order on the part of the Buyer or any factor beyond the control of Spiroflow that are not part of the Price as set forth in the Order Acknowledgment.

(b) If the Formal Proposal includes a predetermined amount of start-up time, it includes only the predetermined amount of startup time specifically described in the Formal Proposal. Spiroflow will furnish, at Buyer's request, additional time by a competent person for the purpose of startup or field service for the system covered by the Formal Proposal, whose services shall be paid for by Buyer to Spiroflow at the rates listed in the Formal Proposal, together with all overtime, living and traveling expenses, and including all time said person is absent from Spiroflow's factory on Buyer's business, which shall be payable monthly upon Spiroflow's invoice.

(c) Buyer agrees to reimburse Spiroflow for all reasonable travel and out-of-pocket expenses incurred by Spiroflow in connection with the performance of the Services, if applicable.

(d) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, process controls, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, taxes, costs, and expenses; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Spiroflow's income, revenues, gross receipts, personal or real property, or other assets. Where applicable, the amount of any such tax or taxes which Spiroflow may be required to pay or collect may be added to the invoice as a separate charge to be paid by Buyer unless Buyer has furnished Spiroflow with valid evidence of tax exemption that is acceptable to Spiroflow.

8. Payment Terms.

(a) Unless expressly set forth otherwise in the Order Acknowledgment, payment terms for sale of goods with final destination inside the continental United States, Buyer shall pay a down payment equal to 50% of the total price shown in the Order Acknowledgment upon execution of the Order Acknowledgment, net due with invoice. Buyer shall pay a progress payment equal to 35% of the total price shown in the Order Acknowledgment not later than 30 days prior to ship date, net due with invoice. Buyer shall pay the final 15% upon delivery, net 30 days from invoice. Buyer shall make all payments by wire transfer or check in U.S. Dollars. Delays in Buyer making a down payment and/or a progress payment may result in a manufacturing delay and/or delivery delays.

(b) Unless expressly set forth otherwise in the Order Acknowledgment, payment terms for sale of goods outside the United States (including but not limited to Mexico and Canada) are to be by Irrevocable and Guaranteed Letter of Credit drawn on a major North Carolina bank and payable in U.S. funds upon presentation of shipping documents. All bank charges are to be against the Buyers account both in and out of the country of destination.

(c) Buyer shall pay interest on all late payments at the lesser of the rate of 2% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Interest on late payments is due and payable by Buyer immediately. Buyer shall reimburse Spiroflow 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 Spiroflow does not waive by the exercise of any rights hereunder), Spiroflow shall be entitled to suspend the delivery of any Products or performance of any Services if Buyer fails to pay any amounts when due hereunder.

(d) All payment terms are subject to credit approval. Price does not include any state or local taxes. Spiroflow reserves the right to collect taxes from Buyer under existing or future law. Spiroflow shall retain title to and a security interest in the goods until the full amount owed is paid. Please note that for credit card payments, a 3% surcharge will be added to cover Spiroflow's additional processing costs.

(e) Buyer shall not withhold payment of any amounts due as a set-off of any claim or dispute with Spiroflow, whether relating to Spiroflow's breach, bankruptcy or otherwise.

9. Limited Warranty.

(a) Spiroflow warrants to Buyer that, subject to the remainder of this Section, the Products shall be free from defects in workmanship and material for 12 months from the date of equipment start-up or 18 months from the date of shipment, whichever comes first ("**Warranty Period**"); *provided, however*, for tubular drag conveyor Products, including Cablevey, Chainflow, and Dynaflow Products, this limited warranty is only applicable if, and only if, the box has been checked in Section 1(a) of these Terms and Buyer engages and pays Spiroflow to supervise installation and/or perform all commissioning activities deemed reasonable by Spiroflow, with respect to these Products, at the rates quoted in the applicable Formal Proposal. Parts subject to

normal wear, including but not limited to gaskets, seals, drive belts, conveyor spirals, conveyor tubes, conveyor cables, chains, discs, and sprockets are excluded from this Limited Warranty.

(B) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 9(A), SPIROFLOW MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS OR SERVICES, INCLUDING NO (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY AS TO MEETING ANY PERFORMANCE STANDARDS OR SPECIFICATIONS; OR (D) 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. SPIROFLOW HEREBY DISCLAIMS ALL SUCH WARRANTIES. IN ADDITION, BUYER ACKNOWLEDGES AND AGREES THAT NEITHER SPIROFLOW NOR ANY OF ITS PERSONNEL ARE LICENSED (NOR WILL THEY BECOME LICENSED) OR OTHERWISE AUTHORIZED BY ANY GOVERNMENTAL AUTHORITY TO PROVIDE THE SERVICES IN THE APPLICABLE JURISDICTION WHERE SERVICES MAY BE PERFORMED, WHETHER AS AN ENGINEER OR OTHERWISE. FURTHER, IF THE SERVICES PROVIDED HEREUNDER INCLUDE A PERFORMANCE TEST WITH RESPECT TO ANY OF THE PRODUCTS, THE PARTIES ACKNOWLEDGE AND AGREE THAT THE RESULTS OF ANY PERFORMANCE TEST ARE BASED ON HOW THE PRODUCTS PERFORMED IN SPIROFLOW'S OWN TESTING LABORATORY AND NOT IN BUYER'S FACILITY; ACCORDINGLY, SPIROFLOW MAKES NO WARRANTY OR ASSURANCES OF ANY KIND WHATSOEVER THAT THE PRODUCTS WILL PERFORM IN BUYER'S FACILITY OR SYSTEMS IN A MANNER THAT IS CONSISTENT WITH THE RESULTS ACHIEVED IN SPIROFLOW'S PERFORMANCE TEST. FURTHER, THE LIMITED WARRANTY SET FORTH IN SECTION 9(A) IS CONTINGENT UPON BUYER: (A) CORRECTLY INSTALLING THE PRODUCTS, (B) USING THE PRODUCTS ONLY IN THE MANNER THEY WERE DESIGNED TO BE USED AND IN ACCORDANCE WITH ALL INSTRUCTIONS FURNISHED BY SPIROFLOW; AND (C) OBSERVING GOOD MAINTENANCE PRACTICES WITH RESPECT TO THE PRODUCTS. BUYER'S FAILURE TO OBSERVE ANY OF THE FOREGOING SHALL RENDER THE AFOREMENTIONED WARRANTY NULL AND VOID.

(c) Products manufactured by a third party ("Third Party Product") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Products. Third Party Products are not covered by the warranty in Section 11(a). For the avoidance of doubt, **SPIROFLOW MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) 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, AND SPIROFLOW HEREBY DISCLAIMS ANY AND ALL SUCH WARRANTIES.** Notwithstanding the foregoing, Spiroflow shall use commercially reasonable efforts to pass along any manufacturer warranties

received by Spiroflow with respect to Third Party Product to Buyer. In addition, **SPIROFLOW MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO (I) THE INTEGRATION OF GOODS OR PRODUCTS WITH THIRD PARTY PRODUCTS OR BUYER'S SYSTEMS OR EXISTING OPERATIONS OR (II) ANY SERVICES PROVIDED BY SPIROFLOW OR THIRD PARTIES IN CONNECTION WITH ANY SUCH INTEGRATION.**

(d) Spiroflow shall not be liable for a breach of the limited warranty unless: (i) **the details of the operating conditions were made known to Spiroflow in writing by buyer prior to any Formal Proposal or other quotation;** (ii) Buyer gives written notice of the defective Products, reasonably described, to Spiroflow within the Warranty Period set forth in Section 9(a); (iii) if applicable, Spiroflow is given a reasonable opportunity after receiving the notice of breach of the warranty set forth in Section 9(a) to examine such Products and Buyer (if requested to do so by Spiroflow) returns such Products for examination to Spiroflow at Spiroflow's cost; and (iv) Spiroflow reasonably verifies Buyer's claim that the Products or Services are defective.

(e) The Spiroflow shall not be liable for a breach of the warranty set forth in **Section 9(a)** if: (i) Buyer makes any further use of such Products after giving notice; (ii) the defect arises because Buyer failed to follow Spiroflow's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or use the Products in accordance with applicable instruction manuals; or (iii) Buyer alters or repairs Products without the prior written consent of Spiroflow.

(f) Subject to **Section 9(d)**, Section 9(c), and **Section 9(d)** above, with respect to any defective Products during the Warranty Period, Spiroflow shall, in its sole discretion, either: (i) repair or replace such Products (or the defective part) or (ii) credit or refund the price of such Products at the pro rata contract rate; provided that, if Spiroflow so requests, Buyer shall return defective Products to Spiroflow and Spiroflow shall reimburse Buyer for the reasonable and documented out-of-pocket expenses incurred by Buyer for such return. These remedies are Buyer's sole and exclusive remedy for any breach of the limited warranty. No parts, components or service time will be provided without a Purchase Order from the Buyer and Order Acknowledgment from Spiroflow. No charge will be made to Buyer for warranty items; however, Buyer will be billed for goods and/or services not covered by this limited warranty.

(g) Spiroflow points out that it will endeavor to ensure that any supplied equipment and components are shipped from its premises clean and free of any broken or loose ferrous and non-ferrous particles. It is advised that it is the customer's responsibility to ensure the cleanliness of the equipment meets their requirements prior to start-up and to provide an adequate and reliable method of monitoring their products.

(h) As is customary with manufacturers of machinery with moving metal parts, which directly contact materials, we advise customers that sieving and/or metal detection equipment should be incorporated into any dry ingredients handling system. This advice is based on recommendations made in the ISO9000 and Good Manufacturing Procedures followed in the pharmaceutical and food sectors. Spiroflow's sales engineer has a list of our recommended suppliers of this type of equipment.

10. Limitation of Liability.

(a) Spiroflow's liability on any claim for loss or damage arising out of any transactions under this Agreement or from the performance or breach thereof or connected with any Products or Services supplied hereunder, or the operation or use of Products, whether based on agreement, warranty, tort (including negligence) or other grounds or theory of liability, shall not exceed the price allocable to Products or Services or the part thereof involved in the claim, regardless of cause or fault. Buyer's remedies are limited to the remedies set forth in Section 3 (non-delivery), Section 6 (Nonconforming Products), and Section 9 (warranty). This limitation of liability and remedies reflects a deliberate and bargained-for allocation of risks between Spiroflow and Buyer and constitutes the basis of the Parties' bargain, without which Spiroflow would not have agreed to the price or terms of this transaction.

(b) SPIROFLOW SHALL NOT IN ANY EVENT BE LIABLE WHETHER AS A RESULT OF BREACH OF AGREEMENT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS FOR INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF GOODS OR ASSOCIATED PRODUCTS, LOSS OF GOODWILL, BUSINESS INTERRUPTION, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF BUYER FOR DAMAGES.

(c) If Spiroflow furnishes Buyer with advice or other assistance regarding any Products or Services supplied hereunder, or any system or equipment in which any Products may be installed, and which is not required pursuant to this transaction, the furnishing of the advice or assistance will not subject Spiroflow to any liability, whether based on agreement, warranty, tort (including negligence) or other grounds.

11. Indemnification.

(a) Buyer assumes all risk and liability for loss, damage or injury to third person or property arising from the use of goods supplied by Seller to Buyer. Buyer agrees to defend, indemnify and hold harmless Spiroflow, including its directors, officers, employees, agents and representatives (collectively "Spiroflow Indemnitees"), against liability or obligations that arise from contract or tort, including but not limited to negligence including strict liability or otherwise with respect to any indirect or consequential damages, lost profits, overtime, replacement equipment or services, penalties, loss or damage to Buyer or any third person.

(b) In the event Buyer modifies Products or incorporates Products into another product or component part, Buyer agrees to hold harmless, fully defend and indemnify Spiroflow and Spiroflow Indemnitees from any and all claims, liabilities, losses, penalties, interest, costs, damages and expenses (including attorneys' fees and litigation costs) involving personal injury or property damage.

(c) Buyer agrees to hold harmless, fully defend and indemnify Spiroflow and Spiroflow Indemnitees from and against any and all patent or other intellectual property

claims related to (i) any Products made in accordance with Buyer's designs or specifications; (ii) the use of any drawings provided to Spiroflow by Buyer for use in the manufacture, production or assembly of Products; or (iii) Buyer's modification of Products or Buyer's combination of Products with another product, which in either case was not previously authorized by Spiroflow.

(d) Buyer agrees to indemnify the Spiroflow and Spiroflow Indemnitees against any losses due to a breach of this contract.

12. Compliance with Law. Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Spiroflow makes no promise or representation or warranty (and Spiroflow hereby disclaims any such promise or representation) that the Products will conform to any federal, state or local ordinances, regulations, codes or standards, unless particularly and unambiguously specified on the face of the Order Acknowledgment. The proposals and Order Acknowledgment submitted to Buyer by Spiroflow do not include the cost of any related inspections, permits or inspection fees unless expressly stated, and Buyer shall be solely responsible for such costs.

13. Cancellation; Changes. Buyer shall have no right to make any changes or to cancel this Agreement after Spiroflow provides its Order Acknowledgment unless changes are agreed upon in writing by Spiroflow. Cancellation charges will be determined solely by Spiroflow and may include real and incurred costs, overhead costs including administrative and promotional costs, commissions and lost profit.

14. Termination. In addition to any remedies that may be provided under these Terms, Spiroflow may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, 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. Spiroflow shall not be required to proceed or continue with performance of the Order Acknowledgment while Buyer is in default under this Agreement or any other contract or agreement with Spiroflow. In the event of any termination pursuant to this Section, Buyer shall pay, within 30 days from date of Spiroflow's invoice: (a) a cancellation charge of 100% of the unit price for all Products ready for shipment per the applicable Order; (b) for all Products where work is in process but not ready for shipment, if any component parts or products have been purchased by Spiroflow or any labor has been applied to the assembly of such Products not ready for shipment, such cost will be invoiced to, and paid by, Buyer.

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

16. Manuals and Drawings (Applicable Only for Orders from Spiro Systems, Inc.). Spiroflow Systems Inc.'s policy is to supply 2 instruction-maintenance manual for a single unit and 2 instruction manuals for a system. Each manual includes one set of drawings. Additional manuals are available on an individually quoted basis. Dimension outline and interconnection drawing are supplied electronically via email. Additional drawings are available on an individually quoted basis.

17. Patents and Confidential Information. Spiroflow assumes no liability as to possible patent infringements by virtue of the use of goods in combination with other elements or structure or use of goods manufactured to Buyer's specifications. All non-public, confidential or proprietary information of Spiroflow, including but not limited to, all drawings, diagrams, charts, tables, technical information, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Spiroflow to Buyer, whether oral or written or recorded on a photographic or electronic medium are proprietary and remain the sole property of Spiroflow and are furnished to Buyer for the sole purpose of sale, installation, and maintenance of goods sold. Buyer agrees to exercise reasonable effort to maintain all information provided by Spiroflow in confidence. Upon Spiroflow's request, Buyer shall promptly return all documents and other materials received from Spiroflow. Spiroflow shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

18. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Spiroflow 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)"): (a) acts of God; (b) flood, fire, earthquake, pandemic or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) national or regional emergency; (f) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (g) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within 30 days of the Force Majeure Event to the other party, stating the 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 after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 180 consecutive days following written notice given by it under this Section, either Party may then terminate this Agreement upon 30 days' written notice.

19. COVID-19 Delays. Spiroflow shall not be liable for any loss, costs, expense, claim action and or damage caused by the delay in the performance or non-performance of any of its obligations hereunder, where the same is occasioned by the effect of the Coronavirus (COVID-19) which makes the performance of its obligations under this contract impossible to perform in a timely manner or if there is an increase in costs to Spiroflow that makes it uneconomical for them to perform their obligations. (In relation to the latter an increase of 20% or more of the costs would render the contract uneconomical.) On the occurrence of such an event, Spiroflow will

immediately give notice to the Buyer and the contract shall be suspended forthwith. If after 3 months Spiroflow is still unable to perform its obligations due to the effects of COVID-19 then the contract can be terminated by Spiroflow on giving 30 days written notice. Each party shall bear its own costs of such suspension or termination.

20. Assignment. The Parties shall not assign any of their rights or delegate any of their obligations under this Agreement without the prior written consent of Spiroflow. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer or Seller of any of their obligations under this Agreement.

21. Severability. If any provision of these Terms are found to be, for any reason, unenforceable, such a finding will have no effect on other provisions.

22. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Iowa or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Delaware. The provisions of the United Nations Convention on Agreements for the International Sale of Goods shall not apply.

23. Dispute Resolution. Any legal suit, action, or proceeding arising out of or relating to this Agreement, or breach thereof, shall be finally resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "**Arbitration**"), and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator in the Arbitration must have no less than 10 years of experience in complex commercial transactions. Arbitration hearings shall take place in Charlotte, North Carolina, USA. If legal action is required to collect any monies owed to Spiroflow or to enforce any duties or obligations of Buyer under this contract, Buyer agrees to pay Spiroflow, or its order, on, on demand, reasonable attorney's fees and all other costs and expenses incurred by Spiroflow in enforcing this agreement.

24. 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 Acknowledgment 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 this 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 this Section.

25. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each Party. Neither the Agreement nor any of its provisions may be modified, amended or waived, whether orally, through the parties' course of performance, course of dealing or course of conduct, or manifested in any other way, unless in writing and signed by a representative of each Party.