

**REVERE ELECTRIC SUPPLY CO.  
TERMS AND CONDITIONS**

These Terms and Conditions and the "Acknowledgement(s)" to which they are attached ("Acknowledgement") together form the agreement ("Agreement") by and between REVERE ELECTRIC SUPPLY CO., an Illinois company ("Revere"), having an address at 8807 187<sup>th</sup> Street, Mokena, IL 60448, and the customer identified in the Acknowledgment (the "Buyer") who desires to acquire product(s) from Revere that are more fully described in the Acknowledgement(s) attached hereto, each of which are incorporated by reference herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Revere and Buyer agree as follows:

**1. IMPORTANT INFORMATION — READ CAREFULLY. THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL, DIFFERENT, OR CONFLICTING TERMS OR CONDITIONS IN ANY FORM DELIVERED BY BUYER TO REVERE AT ANY TIME ARE DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION THERETO IS HEREBY GIVEN. BY ACCEPTING DELIVERY OF THE PRODUCTS IDENTIFIED ON THE ACKNOWLEDGMENT(S), INVOICE(S), OR OTHER DOCUMENTATION FROM REVERE, BUYER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS OF CONDITIONS.**

**2. Complete Contract.** This Agreement contains the entire understanding of the parties with respect to the matters referred to herein and supersedes and replaces in its entirety any and all prior communications, agreements, understandings, either oral, written, or implied, if any, between the parties. This Agreement may not be modified unless agreed to and approved by Revere in writing.

**3. Products.** Revere will provide products to Buyer and will bill Buyer for such products, and Buyer shall pay Revere for the products in accordance with Section 5 herein.

**4. Prices and Taxes.** Seller reserves the right to make adjustments to pricing unless otherwise set forth in the Acknowledgment. All prices are exclusive of any sales, use, revenue, excise, value added, turnover, or similar tax and duties and all taxes and duties will be separately billed by Revere to Buyer and shall be paid by the Buyer in accordance with Section 5 herein unless and to the extent a proper tax exemption certificate is provided in advance by Buyer to Revere. Buyer will pay for and will indemnify and hold Revere and its Affiliates harmless from any such applicable taxes and duties and any federal, state or local fees or charges (including, but not limited to, environmental or similar fees) imposed on or associated with products purchased pursuant to this Agreement.

**5. Payment.** Each invoice shall be due and payable per the terms listed on the invoice. In the event of non-payment, Buyer agrees to pay all of Revere's costs of collection, including, but not limited to, court costs, filing fees and attorneys' fees, incurred by Revere to collect payment and interest charges or to otherwise enforce the terms of this Agreement. If Buyer's account becomes delinquent, Buyer's account with Revere may be suspended and Revere may require full or partial payment prior to shipment.

**6. Risk of Loss.** Title to all products shipped pursuant to this Agreement and the risk of loss or damage during shipment passes from Revere to Buyer upon delivery to the carrier at the F.O.B. point. Notwithstanding the foregoing, title to software purchased from Revere will remain with the applicable licensor and Buyer's rights therein are contained in the license agreement between Buyer and such licensor.

**7. Delivery.** Shipping dates given in advance of shipment are approximate and not guaranteed by Revere.

**8. Claims.** Within ten (10) business days after receipt by Buyer of products sold by Revere, Buyer must give written notice to Revere of any claim based upon the condition, quality, or grade of products sold, or of any claimed nonconformance with Buyer's specifications. Failure to so notify Revere shall be deemed an unqualified waiver of any right to return products.

**9. Returned Goods and Restocking Charges.** Revere allows customer returns based on the policies of the original product manufacturer. Buyer must request in writing and obtain a written "Returned Goods Authorization" from Revere, before returning any products sold pursuant to this Agreement. A restocking charge will be assessed on all returned products. Credit for the return of specialty non-stock items will be in accordance with the terms of the manufacturer or supplier, and may bear additional restocking charges. All returned goods must be returned to Revere no later than sixty (60) days after the date of shipment of such goods at Buyer's expense. No credit will be allowed for goods returned without a written "Returned Goods Authorization".

**10. Cancellation of Orders.** Buyer may cancel an order for standard products prior to thirty (30) days before shipment by providing written notice to Revere of cancellation and paying a cancellation and restocking charge. Special order products may only be cancelled with the written consent of the manufacturer therefore and Revere.

**11. Governing Law.** This Agreement shall be governed by the laws of the State of Illinois, including the Illinois Uniform Commercial Code, without regard to conflicts of laws rules. The United Nations Contract on the International Sale of Goods shall not apply to this Agreement.

**12. Term and Termination.** This Agreement shall continue until terminated pursuant to the terms of this Agreement. In the event of a breach by one party of a material obligation under this Agreement, the other party shall be entitled to give the party in breach written notice describing the breach in detail. If such breach or default is not fully remedied within thirty (30) days after the date of such notice, the notifying party shall be entitled to, in addition to all other remedies available to such party, terminate this Agreement by a written notice to the breaching or defaulting party. The provisions of Section 15 ("Confidential Information") of this

Agreement are essential terms and shall survive the termination or expiration of this Agreement and but for those obligations, neither Revere nor Buyer would enter into this Agreement. In the event of breach of any obligations of Section 15, the non-breaching party shall be entitled, in addition to any other rights it may have, to seek injunctive relief to restrain any breach, threatened breach or otherwise specifically enforce the covenants in such Section 15 without giving notice or any opportunity to cure the breach. Upon termination of this Agreement by either party, each party shall, at their respective expense (i) return to each party all of the other party's Confidential Information and other materials belonging to the other party in its possession or control, and/or (ii) delete from its servers and/or hard drives any electronic files containing the other party's Confidential Information, materials and processes.

**13. Warranties.** Buyer understands that Revere is not the manufacturer of the products purchased by Buyer from Revere and the only warranties offered are those of the manufacturer, not Revere or its affiliates. Revere will use its best efforts to obtain from each manufacturer, in accordance with the manufacturer's warranty or practice, the repair or replacement of products that may prove defective in material or workmanship. **THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. REVERE DOES NOT ASSUME OR AUTHORIZE ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH ITS PRODUCTS.**

**14. Limitation of Liability.** In the event of any liability incurred by Revere or any of its affiliates, the entire liability of Revere and its affiliates for damages from any cause whatsoever will not exceed the net purchase prices of any such product giving rise to the claim, or to the repair or replacement of such product. Revere, its affiliates, or its suppliers, will under no circumstances be liable for any special, incidental, indirect, consequential, punitive damages, including, but not limited to back charges, labor costs, costs of removal, testing or installation, loss of efficiency, lost profits or any other revenues, loss of the use of the product or any related or associated product, damage to associated products, lateness or delay in delivery, downtime, or claims from Buyer's customers or other parties.

**15. Confidential Information.**

15.1 **"Revere Confidential Information"** includes any and all information Revere discloses or provides to Buyer in connection with this Agreement, products sold from Revere to Buyer pursuant to this Agreement, or that is otherwise acquired by Buyer from Revere, including without limitation, materials, methods, processes, techniques, facilitator guides, or other information in any form now known or later developed; provided (i) such information has been marked or made known as confidential or proprietary, or (ii) due to its character and nature, a reasonable person under like circumstances would treat as confidential.

15.2 **"Buyer Confidential Information"** includes any and all information Buyer discloses or provides to Revere in

connection with this Agreement, products sold from Revere to Buyer pursuant to this Agreement, or that is otherwise received by Revere from Buyer. Buyer Confidential Information disclosed or provided in writing shall be marked by the Buyer as confidential or proprietary or if verbal or otherwise shall be made known by the Buyer to Revere that it considers such information as confidential.

15.3 Confidential Information does not include information which either Revere or Buyer, as the case may be, can reasonably demonstrate by written records (1) was already known to the other at the time of disclosure; (2) is or becomes publicly known through no wrongful act or failure of the other or others similarly obligated to Revere or Buyer; or (3) was independently developed by the other without the benefit of other's Confidential Information.

15.4 Buyer will hold all Revere Confidential Information in confidence and will not disclose the Revere Confidential Information to any third party. Buyer will protect such Revere Confidential Information at all times in the same manner as Buyer protects the confidentiality of its own proprietary and confidential materials but in no event with less than a reasonable standard of care. Buyer will not use such Revere Confidential Information commercially for its own benefit or for the benefit of anyone else. Buyer may comply with a court order compelling production of Revere Confidential Information, but Buyer must give Revere prompt prior notice and use reasonable efforts to obtain a protective order or other reliable assurance that the Revere Confidential Information will be given confidential protection. Upon request by Revere, or immediately upon termination of this Agreement, Buyer will deliver to Revere all Revere Confidential Information and all copies thereof (and all other property obtained from or through Revere). Buyer's obligation hereunder shall survive termination or expiration of this Agreement.

15.5 Revere will hold all Buyer Confidential Information in confidence and will not disclose the Buyer Confidential Information to any third party. Revere will hold all Buyer Confidential Information in confidence and will not disclose the Buyer Confidential Information to any third party. Revere will protect such Buyer Confidential Information at all times in the same manner as Buyer protects the confidentiality of its own proprietary and confidential materials but in no event with less than a reasonable standard of care. Revere will not use such Buyer Confidential Information commercially for its own benefit or for the benefit of anyone else. Revere may comply with a court order compelling production of Buyer Confidential Information, but Revere must give Buyer prompt prior notice and use reasonable efforts to obtain a protective order or other reliable assurance that the Buyer Confidential Information will be given confidential protection. Upon request by Buyer, or immediately upon termination of this Agreement, Revere will deliver to Buyer all Buyer Confidential Information and all copies thereof (and all other property obtained from or through Buyer). Buyer's obligation hereunder shall survive termination or expiration of this Agreement.

**16. Indemnification.**

16.1 **By Revere.** Revere agrees to defend, indemnify and hold harmless Buyer, its affiliates, officers, directors, members, employees, participants and their successors and assigns from and

against any damages, claims, losses, expenses, costs, obligations and liabilities (including without limitation, reasonable attorneys' fees and costs) arising out of any claim that this Agreement or products sold by Revere to Buyer pursuant to this Agreement infringe or otherwise conflict with a third party's copyright, trademark, patent, or other proprietary right, including use or misuse of Buyer Confidential Information.

16.2 **By Buyer.** Buyer agrees to defend, indemnify and hold harmless Revere, its affiliates, officers, directors, members, employees, agents, successors and assigns, from and against any damages, claims, losses, costs, obligations and liabilities (including without limitation reasonable attorneys' fees and costs) arising out of (i) any claim relating to Buyer's breach of this Agreement; (ii) use or misuse of the Revere Confidential Information; or (iii) any act or omission of Buyer that is related to performance under this Agreement, including claims for death, personal injury, illness, and/or property damage; provided such damages, claims, losses, expenses, costs, obligations and liabilities are not attributable to the gross negligence or intentional willful acts or omissions of Revere.

17. **Third Party Services/Licenses.** Buyer may order services or software licenses (collectively "Services") from or through Revere from time to time. Services, including, but not limited to, extended warranty service by manufacturers and software licenses, are sold by Revere as a distributor or sales agent ("Third Party Services"). In the case of Third Party Services, the third party shall be the party responsible for providing the services to Buyer and Buyer will look solely to the third party for any loss, claims or damages arising from or related to the provision of such Third Party Services. Buyer hereby releases Revere and its affiliates from any and all claims arising from or relating to the purchase or provision of any such Third Party Services. Any amounts, including, but not limited to, taxes, associated with Third Party Services which may be collected by Revere will be collected solely in the capacity as an independent sales agent. Where Services are ordered in a Statement of Work, each Statement of Work hereby incorporates these Terms and Conditions and constitutes a separate agreement with respect to the Services performed. Revere or any of its affiliates may execute a Statement of Work. In the event of an addition to or a conflict between any term or condition of the Statement of Work and this Agreement, the terms and conditions of this Agreement will control, except as expressly amended in the applicable Statement of Work by specific reference to this Agreement. Each such amendment will be applicable only with respect to such Statement of Work and not to future Statements of Work. Changes to the scope of the Services described in a Statement of Work will be made only in writing executed by the authorized representatives of both parties. Revere will have no obligation to commence work in connection with any such change, unless and until the change is agreed upon in that writing executed by both parties. All such changes to the scope of the Services will be governed by this Agreement and the applicable Statement of Work. Each Statement of Work may be signed in separate counterparts each of which shall be deemed an original and all of which together will be deemed to be one original. Unless specified in writing signed by both parties all licenses provided as party of the Third Party Services are strictly governed by the terms of the licensor thereof. Buyer shall comply with the terms of any such license.

18. **Ethical and Legal Compliance.** Buyer shall comply with ethical business practice common to the industry in which it is engaged and the place(s) where it conducts business and all applicable laws, ordinances and regulations, including, without limitation those relating to "Foreign Corrupt Practices", "Export Administration Regulations" and generally related to the conduct of its business and shall protect, indemnify, defend and hold Revere, its officers, directors, employees, and agents, and those of its affiliates harmless from any and all claims, fines, penalties or other consequences of Buyer's non-compliance with any of the foregoing.

19. **Dispute Resolution.** Notwithstanding anything herein to the contrary, any dispute arising out of or relating to this Agreement, including its formation and effect, ("Dispute") shall be resolved by mediation and then arbitration in the following manner; provided, however, that injunctive relief may be sought and obtained by Revere or Buyer for violation of Section 15, which relief may be effective during the pendency of proceedings brought pursuant to this Section. The party raising the Dispute shall initiate mediation by giving written notice no later than twenty (20) business days after the date of the Dispute arising, in the form of a statement which shall include a detailed written description of the Dispute, the basis therefore, and propose one (1) or more resolutions thereof and cause the same to be sent to the other party and its attorney (in the manner provided for notice hereunder) ("Dispute Notice"). No later than ten (10) business days after receipt of a Dispute Notice, the party receiving the Dispute Notice shall prepare a detailed response thereto and propose one (1) or more resolutions thereof ("Response Notice") and shall cause the same to be sent to the other party and its attorney, if any, in the same manner as a Dispute Notice. No later than fifteen (15) business days after the sending of a Response Notice, the presidents or chief financial officers of the parties shall meet to discuss the Dispute Notice and Response Notice, and shall use their good faith, reasonable and best efforts to resolve the Dispute Notice and Response Notice no later than ten (10) business days after such meeting commences, which resolution, if reached, shall be binding on the parties (collectively, a "Mediated Resolution"). If there is no Mediated Resolution within said ten (10) business days (or such other period agreed to by the Parties in writing), then the parties agree that the Dispute shall be settled by arbitration in Chicago, Illinois by one (1) arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. All discovery questions shall be governed by the Federal Rules of Procedure and Evidence for the United States District Courts. The proceedings and decision of the arbitrator shall be final, non-appealable (except on the basis of abuse of the arbitrator's discretion), binding and confidential, except as necessary for enforcement of the decision (an "Arbitral Award"), which Arbitral Award may include equitable, injunctive and/or monetary relief as well as any other remedy available at law or equity, which may be enforced in any court of competent jurisdiction, provided that no Arbitral Award shall be inconsistent with the express provisions of this Agreement. The fees of the arbitrator and the costs of arbitration, including the respective legal, accounting, expert and paralegal fees incurred by the parties shall be borne by the parties to the arbitration in such manner as shall be determined by the arbitrator in the Arbitral Award, whose determination shall also be binding on the parties as to the fees and costs of the arbitration and as to those incurred in any enforcement proceedings in court to enforce the Arbitral Award.

20. **Assignment.** This Agreement shall be binding on the parties and their respective successors and assigns. Buyer shall not have the right to assign this Agreement without the prior written consent of Revere, which shall not be unreasonably withheld or delayed.

21. **Force Majeure.** The obligations of the parties under this Agreement shall be suspended, to the extent a party is hindered or prevented from complying therewith because of labor disturbances (strikes or lockouts), acts of war, acts of terrorism, vandalism or other aggression, acts of God, fires, storms, accidents, governmental regulations, or any other cause whatsoever beyond a party's control, so long as that party provides prompt, written notice describing the condition and takes all reasonable steps to avoid or remove such causes of nonperformance and immediately continues performance whenever and to the extent such causes are removed. In the event that either party declares a condition of suspended performance, Revere may impose temporary surcharges due to sudden increases in Revere's costs for obtaining products, transportation, fuel or materials. Such surcharges will be added to the purchase price to be paid by Buyer.

22. **Waiver of Trial by Jury.** Revere and Customer waive any and all rights of a trial by jury in connection with any Dispute.