GENERAL

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NO ACTION BASED ON THE CONTRACT, TORT, OR OTHER THEORIES OF LIABILITY SHALL BE BROUGHT AGAINST SELLER FOR ANY LOSS, WHETHER DIRECT, INDIRECT, OR SPECIAL, ARISING OUT OF OR RELATED TO THE PRODUCTS, WHETHER SUCH DAMAGES ARE CAUSED BY SELLER’S NEGLIGENCE OR OTHERWISE. LIMITING AGREEMENTS, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, STATUTORY OR IN FACT, TO THE FULLEST EXTENT ALLOWABLE UNDER APPLICABLE LAWS. SELLER IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR OTHER TAMPERING WITH THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN SELLER. SELLER’S PRIOR WRITTEN APPROVAL OR ANY USE OF REPLACE PARTS NOT SUPPLIED BY SELLER, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE AFFECTED PRODUCTS.

INDEMNIFICATION BY SELLER

Seller agrees to indemnify, defend and save Buyer, its officers, directors, and employees from and against any and all losses, claims, suits, actions, costs, and expenses (including without limitation reasonable attorneys’ fees and disbursements and court costs) incurred by Seller in selling such oversimplified or otherwise enforcing the terms and conditions of this Agreement.

WARRANTY

Seller warrants that the Products will operate or perform substantially in conformance with Seller’s published specifications, if time of performance is of essence, for a period of ninety (90) days from the date of delivery to Buyer, which period shall be extended by the amount of time necessary for Buyer to return the defective Products to Seller with all costs prepaid by Buyer. Replacement parts may be new or refurbished, at the election of Seller. All replaced parts shall become the property of Buyer.

Buyer agrees to timely notify Seller in writing of any defect discovered after delivery. Seller shall have the right to inspect any defective Product and shall have one hundred twenty (120) days from the date of Buyer’s request to inspect the same, to repair or replace, at Seller’s option, the defective Products so as to make them substantially in conformance with Seller’s published specifications. Seller shall have the right to refuse to repair or replace a defective Product, at Seller’s discretion, if Seller determines such repair or replacement is impractical or impossible. If Seller does not repair or replace a defective Product, Buyer shall be entitled to return the defective Product and shall be entitled to a refund of the purchase price paid by Buyer for the defective Product.

In such event of a dispute, Buyer shall pay Seller therefor at Seller’s then prevailing time and materials rates. If Seller provides repair services or replacement parts that are not covered by this warranty, Buyer shall pay therefor at Seller’s then prevailing time and materials rates.

Any INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN SELLER WITHOUT SELLER’S PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACE PARTS NOT SupPLIED BY SELLER, SHALL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THE AFFECTED PRODUCTS.

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