

WINDEMULLER ELECTRIC, INC. TERMS & CONDITIONS
(FOR USE WHEN WINDEMULLER IS PROVIDING GOODS OR SERVICES, OR IS A SUBCONTRACTOR)

1. The Agreement.

- **Scope of Agreement.** These Windemuller Electric, Inc. Terms and Conditions ("Terms and Conditions") and the attached contract, proposal or purchase order together constitute the agreement ("Agreement") of Customer and Windemuller. All sales or provisions of goods or services by Windemuller Electric, Inc. ("Windemuller") to Customer, pursuant to the Agreement, are governed by these Terms and Conditions. If these Terms and Conditions in any way conflict with other agreements or purchase orders that constitute part of the Agreement (including, but not limited to, any agreement pursuant to which Windemuller is acting as a subcontractor), these Terms and Conditions will govern such conflict and supersede the other parts of the Agreement, except to the extent the parties explicitly and in writing state that such other agreement or purchase order supersedes these Terms and Conditions. Regardless of whether Customer signs the Agreement, Customer's acceptance of delivery of, or Customer's payment for, the goods or services shall constitute Customer's agreement to the terms of, and entry into, the Agreement.
- **Definitions.**
 - "Customer" means the entity or person, other than Windemuller, that accepted and signed the attached contract, proposal, or purchase order, including, but not limited to, a prime contractor or subcontractor that has hired Windemuller as a subcontractor.
 - "Buyer" or "Purchaser" means the same as Customer.
 - "Seller" means Windemuller.
 - "Goods" or "goods" means products, equipment, supplies, parts or goods provided or sold by Windemuller to Customer.
 - "Services" or "services" means services provided or sold by Windemuller to Customer.

2. Payment Terms. Unless otherwise specified in an agreement or document signed by Windemuller that is explicitly incorporated into this Agreement, payment in full of the price is due thirty (30) days after the day of delivery of the goods or performance of the services, without discount, except that, at any time, Windemuller, in its sole discretion, may require advance payment or may ship C.O.D. Any payment that is not made when it is due shall accrue a late charge of 1-1/2% per month. Payment must be made at Windemuller's office address listed below. Windemuller may increase its prices at any time upon notice to Customer to reflect any unusual or unforeseen increase in Windemuller's costs, including, but not limited to, an increase in the cost of materials.

3. Delivery and Risk of Loss. Unless otherwise specified in an agreement or document signed by Windemuller that is explicitly incorporated into this Agreement, Windemuller shall deliver goods F.O.B. (Uniform Commercial Code term) Windemuller's facility, and risk of loss of the goods shall pass to Customer at Windemuller's facility. Shipping, delivery, and performance dates are estimates only, and time is not of the essence. Windemuller shall not in any event be required to ship the goods unless and until Customer shall have paid in full the purchase price of all tooling that Windemuller shall have ordered for use in producing the goods. Windemuller may ship all goods at one time or in portions from time to time. Windemuller shall have the right, but not the obligation, to determine the method of shipment and routing of the goods, unless otherwise specified in an agreement or document signed by Windemuller that is explicitly incorporated into this Agreement.

4. Freight and Taxes. Regardless of whether such amounts are included on Windemuller's invoices, Customer shall be liable, and shall reimburse and indemnify Windemuller, for all freight, shipping, and carrier charges (collectively, "Freight Charges"), and all Taxes incurred by Windemuller or imposed in relation to Windemuller's purchase or sale of goods or services provided under this Agreement. If Windemuller invoices Customer for the incorrect amount of Freight Charges or Taxes, Customer shall remain liable for paying, and shall reimburse and indemnify Windemuller for, the correct amounts of Freight Charges and Taxes. If Customer incorrectly claims it is exempt from paying any Freight Charges or Taxes, Customer shall remain liable for paying, and shall reimburse and indemnify Windemuller for, the correct amount of Freight Charges and Taxes, and all costs and attorney fees incurred by Windemuller in relation to such Freight Charges or Taxes, or any governmental or other audit, investigation, action or proceeding related to such Freight Charges or Taxes. "Taxes" shall include all taxes and duties of every kind, including, but not limited to, all sales, excise, use, privilege, occupation, personal property, value-added or other taxes, and all import or other duties, tariffs, or levies incurred or imposed with respect to Windemuller's purchase or sale of the goods (which is deemed to include all materials or components of such goods) or services provided pursuant to this Agreement. Taxes shall also include any sales or use tax or other tax imposed on Windemuller in connection with its purchase, storage, use or consumption of any property in connection with its performance under this Agreement.

5. Unavoidable Delay. If Windemuller is not able to finish and deliver the goods to Customer, or to perform the services, on time because of anything Windemuller cannot control (including, but not limited to, casualty, labor trouble, accidents, unavailability of supplies or transportation, acts of God, disease, injury, pandemic, epidemic, national, state or local emergency, or Customer's failure to timely approve production samples or perform any obligation under this Agreement), then the estimated delivery or performance time shall be extended accordingly, and Windemuller shall not be liable to Customer for any damages caused by the delay.

6. Changes. Windemuller shall have the right to make design or engineering changes to goods or services, but Windemuller will not, without Customer's prior approval, make any changes in operational or dimensional specifications that Customer submits. Stenographical, computational and clerical errors in quotations are subject to correction.

7. Inspection. Customer may not return any goods, or reject or require corrections or changes to any services, that Customer has accepted. Customer will be deemed to have accepted all goods for which it does not deliver to Windemuller a proper notice of rejection, in writing, within ten (10) days after delivery of such goods. All notices of rejections of goods must be in writing and must correctly state in detail the defects or deficiencies in the goods. Customer will be deemed to have accepted and approved all services for which it does not deliver to Windemuller a proper notice of rejection, in writing, within ten (10) days after performance of such services. All notices of rejections of services must be in writing and must correctly state in detail the defects or deficiencies in the services. Acceptance of goods or services will not vitiate Customer's warranty rights as set forth in this Agreement.

8. Warranty.

- **Goods Manufactured by Windemuller.** Subject to the limitations and other terms of this Agreement (including, but not limited to, those in Section 8 or Section 9 of this Agreement), Windemuller warrants the goods that it manufactures against defects in materials or workmanship under normal use consistent with product instructions for a period of one (1) year after the date of delivery of the product to Customer (or to the place designated by Customer). Unless otherwise specified in an agreement or document signed by Windemuller that is explicitly incorporated into this Agreement, this warranty extends only to the Customer and cannot be assigned to any other party. If warranted products contain defects covered under this warranty, Windemuller's obligation shall be limited to, in Windemuller's sole and absolute discretion, repairing or replacing the defective parts. Repaired or replaced parts are warranted for the remainder of the original warranty period. Customer agrees to inspect the goods immediately upon receipt of such goods from Windemuller. If, prior to alteration by Customer, any item of goods not subject to abuse or misuse proves to be defective (as defined below) within one (1) year following the date of shipment, and if Customer gives written notice to Windemuller of such defect within that period and does not alter the goods, then Windemuller shall, at Windemuller's option, either repair (or have repaired) or replace the defective item, at Windemuller's expense. Notice of a breach of Windemuller's warranty must be made in writing addressed to Windemuller, setting forth sufficient detail to permit identification by Windemuller of the claimed defect. Samples should accompany such notification. If Customer alters the goods or fails to notify Windemuller within the one (1) year period following shipment of the goods, any claim for breach of warranty shall be conclusively deemed to have been waived by Customer with respect to the alleged defect. In the event of a defect in any goods constituting a breach of the warranty provided herein, Windemuller shall furnish instructions for the disposition of the defective goods. If Windemuller fails to repair or replace any defective item within a reasonable time, then Windemuller shall be liable to Customer for the lesser of (i) the reasonable costs of repair or replacement by a third party or (ii) that part of the purchase price of the defective goods that shall have been paid by Customer, but Customer shall not obtain repair or replacement by a third party without giving Windemuller at least fifteen (15) days prior written notice, during which time Windemuller may repair or replace the defective item. An item shall be considered "defective" if it is found by Windemuller to have been defective in materials or workmanship and if the defect materially impairs the value of the goods to Customer, except that the goods shall not be defective to the extent that (i) they conform with drawings, specifications, goods, testing results, dimensional layouts, or manufacturing methods that have been submitted or approved by Customer or (ii) they are damaged due to misapplication, faulty installation, or insufficient or unauthorized startup or service. Windemuller does not warrant that the goods or services will meet Customer's specifications, drawings, or samples unless expressly agreed in a written agreement or other document signed by Windemuller that is incorporated into this Agreement. Windemuller does not warrant the workmanship of others who have performed work on or used the goods. Neither Customer nor any other person may modify or expand

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the warranty provided herein, waive any of the limitations, or make any different or additional warranties with respect to the goods. Any statements to the contrary are hereby rendered null and void unless made in a written agreement or other document that is incorporated into this Agreement and signed by Windemuller.

- **Goods Not Manufactured by Windemuller.** Windemuller does not in any way warrant, and shall not be liable for, goods manufactured by other persons. Customer's and all other persons' sole recourse with respect to those goods, or defects in or damages caused by or related to those goods, shall be against the manufacturers; and it shall be Customer's duty to secure and maintain a written copy of the manufacturer's warranty.
- **Services.** If a service proves to be defective (as defined below) within one (1) year after Windemuller performs the service, and if Customer notifies Windemuller in writing of such defect within such one-year period, then Windemuller shall, at its option, either re-perform the service, at Windemuller's expense, or refund to Customer the price that Customer paid to Windemuller for that part of the service that was defective. A service shall be considered "defective" if it is found by Windemuller to have failed to meet the standards in Windemuller's industry and if that failure materially impairs the value of the service to Customer, except that if Customer shall have approved or furnished to Windemuller specifications for the service, then the service shall not be considered defective to the extent it conforms to the specifications.

9. **Limitations.** EXCEPT AS EXPLICITLY STATED IN SECTION 8, WINDEMULLER HEREBY DISCLAIMS, AND DOES NOT MAKE, ANY WARRANTY AS TO THE GOODS OR SERVICES PROVIDED OR PERFORMED PURSUANT TO THIS AGREEMENT, AND, IN PARTICULAR, DISCLAIMS, AND DOES NOT MAKE, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO ANY GOODS OR SERVICES; AND CUSTOMER IS SOLELY RESPONSIBLE FOR DETERMINING THE PROPER APPLICATION AND USE OF ANY GOODS. WINDEMULLER DISCLAIMS ALL IMPLIED WARRANTIES, AND CUSTOMER AGREES THAT THERE ARE NO IMPLIED WARRANTIES. WINDEMULLER SHALL HAVE NO LIABILITY FOR LOSS OR DISCLOSURE OF CONFIDENTIAL OR OTHER INFORMATION, OR FOR DATA OR COMPUTER SYSTEM BREACHES OR DAMAGE OF ANY KIND.

CUSTOMER SHALL HAVE NO REMEDY OR RIGHT AGAINST WINDEMULLER IN RELATION TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, FOR ANY BREACH OR DEFAULT UNDER THE AGREEMENT, OR IN RELATION TO ANY GOODS OR SERVICES PROVIDED BY WINDEMULLER PURSUANT TO THIS AGREEMENT, EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 8 OF THIS AGREEMENT. WINDEMULLER SHALL NOT HAVE ANY TORT LIABILITY TO CUSTOMER OR ANY OTHER PERSON WITH RESPECT TO THIS AGREEMENT OR ANY OF THE GOODS OR SERVICES. WINDEMULLER SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, STATUTORY, INDIRECT OR PUNITIVE DAMAGES IN RELATION TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES ARISING FROM ANY PRODUCT DEFECT, DELAY, NONDELIVERY, RECALL, OR OTHER BREACH. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, WINDEMULLER'S LIABILITY TO CUSTOMER UNDER THIS AGREEMENT FOR ANY MATTER OR CLAIM (INCLUDING, BUT NOT LIMITED TO, FOR MATTERS RELATED TO THIRD-PARTY CLAIMS, INDEMNIFICATION CLAIMS, OR WARRANTY CLAIMS) WILL NOT EXCEED THE LESSER OF CUSTOMER'S ACTUAL DAMAGES OR THE AMOUNT PAID BY CUSTOMER WITH RESPECT TO THE SPECIFIC GOODS OR SERVICES FROM WHICH THE DAMAGES OR CLAIM ARISE. FOR EXAMPLE, IF THE AGREEMENT CALLS FOR WINDEMULLER TO PROVIDE TEN ITEMS AND CUSTOMER CLAIMS DAMAGES ONLY WITH RESPECT TO ONE ITEM, WINDEMULLER'S LIABILITY TO CUSTOMER WILL NOT EXCEED THE LESSER OF CUSTOMER'S ACTUAL DAMAGES OR THE AMOUNT PAID BY CUSTOMER WITH RESPECT TO THAT ONE ITEM.

10. **Permits, Review, Approval, and Compliance.** Windemuller is not responsible for obtaining any permit, inspection, or license that is required for installation or operation of the goods or performance of the services, except to the extent the law imposes such responsibility solely on Windemuller. Windemuller does not make any promise or representation that the goods will conform to any law, ordinance, regulation, code, or standard. Any specifications or products marked as "reviewed" by any party for use related to this contract shall be deemed to have been approved by that party.

11. **Safety Features.** Customer shall install and operate the goods properly and according to Windemuller's operating instructions and shall not remove or change any safety device, warning, or operating instructions that Windemuller places on the goods.

12. **Components of Another Product.** If any of the goods are incorporated into or become part of, or if any of the services relate to, equipment, goods, or property that are not manufactured or constructed by Windemuller, then (i) Customer shall be responsible for obtaining all related permits, inspections, and licenses, (ii) Customer shall cause the equipment, goods, or property to conform to all applicable laws, ordinances, regulations, codes, and standards, (iii) Customer shall place on the equipment, goods, or property all safety devices and warnings, and shall furnish to the end user all operating instructions, that are necessary or desirable to satisfy the law or prevent any death, personal injury, or property damage from being caused by any use or operation of the equipment, goods, or property; and (iv) Customer shall at all times comply with all relevant laws, rules, regulations, and governmental or court rulings or orders.

13. **Intellectual Property and Confidentiality.**

- This Agreement will not be deemed to transfer, assign, or license to Customer any right, title, or interest in or to, any idea, invention, technology, idea, concept, discovery, work of authorship or composition, patent, copyright, trademark, trade secret, know-how, formula, design, engineering drawing, device, information compilation, system, software, proprietary item, manufacturing, fabrication, installation or service method or process, tooling, or other intellectual property owned by Windemuller or its third party licensors (collectively "Intellectual Property"). All Intellectual Property will be Windemuller's sole property. Customer hereby assigns to Windemuller all right, title, and interest that Customer now has or may in the future acquire in the Intellectual Property. Customer agrees to execute any waiver, assignment, document, or release requested by Windemuller to evidence Windemuller's clear title to Intellectual Property. Customer shall keep confidential, not disclose to any person, and not use for any purpose (other than the permitted purposes of this Agreement), any of the Intellectual Property or any information about Windemuller's business, operations activities, or owners, except as consented to by Windemuller in writing. Customer will not use any Intellectual Property, in whole or in part, to copy, redesign, reverse engineer, replicate, or manufacture (or enable manufacture or performance by itself or any third party) all or any portion of the goods or services.
- Customer grants to Windemuller an irrevocable nonexclusive license to produce parts pursuant to any specifications provided by Customer. Customer warrants that it has the authority to grant this license to Windemuller, and that neither the granting of this license nor Windemuller's manufacture and sale of parts or goods produced according to Customer's specifications will violate any agreement to which Customer is subject, any patent or other intellectual property right of any party, or any applicable law.

14. **Cyber Security.**

- **Data Security.** "Windemuller's Data" will include all data of Windemuller, including, but not limited to, business information, personal information, customer information, proprietary information, confidential information, and Intellectual Property. Customer shall protect Windemuller's Data from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage, and shall ensure that all measures taken to protect Windemuller's Data comply with applicable data protection and privacy laws, as well as this Agreement.
- **Payment Fraud Prevention.** Windemuller may provide wire, ACH, or credit card payment instructions ("Payment Instructions") to Customer to allow Customer to pay Windemuller invoices. Windemuller's Payment Instructions may include confidential information regarding Windemuller's bank account, routing, credit card payment processing account, and other financial account information related to making payments to Windemuller. Customer must verbally confirm Payment Instructions with Windemuller's CFO prior to making any payment based on those Payment Instructions. Customer shall be liable for any payments not received by Windemuller arising from Customer's failure to confirm, or failure to comply with, Windemuller's Payment Instructions.
- **Cyber Insurance.** Customer shall at its sole cost and expense procure and maintain in force during the term of this Agreement and for two (2) years following the termination or expiration of this Agreement cyber liability and cyber errors and omissions liability insurance from an insurance company having an A.M. Best (or similar rating agency) rating of A- or better with limits of not less than Two Million Dollars (\$2,000,000.00) per claim and in the aggregate ("Cyber Policy"). The Cyber Policy shall include, but not be limited to, insurance coverage for the unauthorized access, acquisition, physical taking, loss, destruction, or disclosure of Windemuller Data or Customer data, which may include personal information, customer information, or information regarding Intellectual Property. The Cyber Policy shall include, at a minimum, coverage for (i) data privacy and computer network security incidents and breaches, (ii) internet and electronic media liability, (iii) professional services liability, (iv) wire funds transfer, payment, or financial account fraud, (v) business interruption coverage, (vi) cyber extortion (for example, ransomware) coverage for threats against data and identity theft, (vii) claims related to computer viruses or other malicious code, (viii) claims related to theft or destruction of data, (ix) claims of intellectual property rights infringement (excluding patent infringement), (x) breaches of this Agreement related to data privacy or network security, and (xi) reimbursement for all expenses and costs associated with investigating or responding to a security breach, recovery of encrypted or stolen data or property, legal expenses, providing notice to affected parties and regulators, mitigation of damages, consultants, credit monitoring for parties affected by a security breach, and data privacy regulatory

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fines and penalties. Upon request, Customer shall provide evidence of continuous coverage to Windemuller. Customer will notify Windemuller at least thirty (30) days prior such insurance coverage being reduced or terminated.

15. **Cancellation.** Customer has no right to, and shall not, cancel all or any part of this Agreement. However, if Customer fails to make any payment or perform any obligation that Customer at any time owes to Windemuller, whether or not related to this Agreement, Windemuller may consider Customer's failure to be an anticipatory repudiation of any or all outstanding contracts that provide for Windemuller to sell goods or services to Customer, and Windemuller may, without liability to Customer, cancel any or all of those outstanding contracts (including, but not limited to, this Agreement).

16. **Indemnity.** Customer shall indemnify and hold harmless Windemuller with respect to all damages, losses, liabilities, claims, and expenses (including, but not limited to, all court costs and attorneys' fees), that Windemuller incurs or becomes subject to in relation to: (i) Customer's breach of any of Customer's obligations under the Agreement; (i) any claimed unfair competition, any claimed patent, trademark or copyright infringement, or any other claim relating to Windemuller's manufacture of the goods, or performance of the services, to Customer's specifications; (iii) Customer's assertion of any claim, or commencement of any proceeding, against Windemuller to the extent that it is not provided for by Section 8 of this Agreement, or is precluded by Section 9 or any other provision of this Agreement; or (iv) the negligence or misconduct of Customer or any of its owners, directors, officers, managers, employees, agents or affiliates.

17. **Windemuller's Rights.** Windemuller has all rights and remedies that applicable law gives to sellers. Windemuller's rights and remedies are cumulative, and Windemuller may exercise them from time to time. Windemuller's waiver of any right on one occasion shall not be a waiver of any future exercise of that right.

18. **Security Interest.** In addition to Windemuller's other rights, Customer hereby grants to Windemuller a continuing security interest in all goods furnished or to be furnished by Windemuller to Customer, together with all tooling, parts, attachments, accessories, dies or appurtenances to such goods, all substitutions, improvements and replacements of such goods, all additions to such goods, and all proceeds of such goods and any of the foregoing. The continuing security interest described in this paragraph may be in the form of a purchase money security interest, a moldbuilder's lien pursuant to the terms of the Michigan Moldbuilder's Lien Act (the "Moldbuilder's Lien Act") or analogous act of another jurisdiction, or a special tool builder's lien pursuant to the terms of the Michigan Special Tool Builder's Lien Act (the "Special Tool Builder's Lien Act") or analogous act of another jurisdiction. The form of such security interest shall be determined by Windemuller in its sole discretion.

19. **Perfection of Security Interest.** Customer hereby authorizes Windemuller to cause all financing statements or other instruments in respect of the security interest granted hereby, including without limitation all Uniform Commercial Code, Moldbuilder's Lien Act, and Special Tool Builder's Lien Act financing statements, to be filed and recorded or re-filed and re-recorded. Customer agrees to execute, or otherwise authenticate, and hereby does authenticate, and deliver any statement, instrument or other document requested by Windemuller for such purpose. Customer further agrees that it shall execute, or otherwise authenticate, and hereby does authenticate, and deliver to Windemuller upon Windemuller's request such further instruments, assurances and other documents as Windemuller deems necessary or advisable for the confirmation of perfection of Windemuller's rights hereunder. Customer authorizes Windemuller to file any such instrument or other document, including without limitation, any Uniform Commercial Code, Moldbuilder's Lien Act, and Special Tool Builder's Lien Act financing statements, without Customer's signature and, if the signature of Customer is required thereon, Customer irrevocably appoints Windemuller as Customer's attorney-in-fact to execute and file any such statement or other instrument in the name and on behalf of Customer.

20. **Rights of Customers of Prime Contractor.** In those situations where Customer is a prime contractor or subcontractor that has hired Windemuller as a subcontractor: (i) no party other than the Customer will have any rights against Windemuller under this Agreement; (ii) Windemuller will not be subject to the terms of any prime contract or other contract not explicitly incorporated into the terms of this Agreement; and (c) Customer will be obligated to pay Windemuller regardless of whether Customer is paid under the prime contract or any other contract. This provision applies to all other persons, including, but not limited to, any prime contractor or subcontractor with whom Windemuller has not expressly contracted under this Agreement and any customer of any prime contractor or subcontractor.

21. **Time for Bringing Action.** In addition to the other limitations on claims or proceedings in this Agreement, Customer may not commence any legal or equitable action or proceeding against Windemuller for breach of this Agreement or for any other claim that arises out of or relates to this Agreement, or the goods or services provided under this Agreement, unless Customer commences such action or proceeding within one (1) year after Windemuller's relevant delivery of goods or performance of services; and all proceedings not commenced within such time period, and all related claims, shall be deemed forever waived and barred.

22. **Notices.** All notices from Customer to Windemuller in relation to this Agreement (including, but not limited to, all claims or notices related to goods or services) shall be in writing and shall be delivered or sent to Windemuller at the following address:

Windemuller Electric, Inc.
Attn: Steve Alles
1176 Electric Ave.,
Wayland, MI 49348-8901

23. **Applicable Law.** This agreement between Windemuller and Customer shall be considered to have been made in the State of Michigan, and it shall be governed by and interpreted according to Michigan law. All actions or proceedings that arise out of or relate to this Agreement shall be commenced and take place in a forum or court in Allegan County or Kent County, Michigan; and Customer irrevocably consents that any such court shall have personal jurisdiction over Customer and hereby waives any objection that the court is an inconvenient forum or that venue in such court is not proper.

24. **Complete Agreement; Amendment; Assignment.** This Agreement contains the entire agreement between Customer and Windemuller relating to the transactions or matters provided for in this Agreement. No oral statement or agreement is part of the Agreement. No prior written agreement or provision is part of this Agreement. No change or modification of this Agreement will be valid unless the same is in writing and signed by all parties to this Agreement; provided, however, that Windemuller, in its sole discretion, may at any time amend these Terms and Conditions, and, upon notice to Customer of such amendment(s), such amendment(s) will be binding with respect to all subsequent orders, deliveries or performances of goods or services pursuant to this Agreement. No other person is a party to, or beneficiary of, this Agreement. Customer may not assign its rights or obligations under this Agreement without Windemuller's written consent.