

Terms and Conditions of Sale

1. Acceptance. Loma Systems, a division of Illinois Tool Works Inc., is herein referred to as “Loma Systems” and the customer purchasing products (“Products”) or services (“Services”) is herein referred to as “Purchaser.” These terms and conditions of sale (“Terms”), any Loma Systems quotation, acknowledgment or invoice and all documents incorporated by specific reference herein or therein (“Loma Systems Documents” and together with these Terms, the “Agreement”), constitute the complete terms governing the sale of Products and Services. LOMA SYSTEMS HEREBY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED BY PURCHASER, WHETHER OR NOT CONTAINED IN ANY OF PURCHASER’S BUSINESS FORMS OR IN PURCHASER’S WEBSITE, AND SUCH ADDITIONAL OR DIFFERENT TERMS WILL BE OF NO EFFECT. No site usage agreement or any other click through agreement on a website will have any binding effect whether or not Loma Systems clicks on an “ok,” “I accept,” or similar acknowledgment. Commencement of any work by Loma Systems or Purchaser’s acceptance of delivery of the Products or Services will manifest Purchaser’s assent to the Agreement. Additional or different terms applicable to a particular sale may be specified in the body of a Loma Systems Document or agreed to in writing by the parties. In the event of a conflict, the following order of precedence will apply: (a) terms agreed to in writing and executed by an authorized officer of Loma Systems; (b) Loma Systems Document terms; (c) these Terms.
2. Quotations. Equipment quotations are only valid in writing and for 60 days from the date of the quotation. Part quotations are only valid in writing and for 30 days from the date of the quotation. All quotations are subject to change or withdrawal without prior notice to Purchaser. Quotations are made subject to approval of Purchaser’s credit. Loma Systems may refuse orders and has no obligation to supply Products or Services unless Loma Systems issues an order acknowledgement or upon the shipment of Products or commencement of Services.
3. Prices and Payment Terms. Prices are in U.S. Dollars and are subject to change without notice. All orders are accepted subject to Loma Systems’ price in effect at time of shipment. Prices do not include any sales, use, value-added or other taxes, import duties, license fees or like charges (“Fees”) related to the sale, importation or use of Products or Services, and Purchaser is responsible for those Fees. If Loma Systems is subsequently required to pay any Fees, Purchaser shall fully defend and indemnify Loma Systems therefor. Terms of payment are 30 days net from the date of Loma Systems’ invoice. Overdue invoices will incur interest at the rate of 1.5% per month, or at the maximum rate allowable by governing law. Purchaser’s inspection rights herein will not affect the payment terms. Under no circumstances will Purchaser have a right of set-off. If Purchaser fails to make any payment as required, Purchaser agrees to indemnify Loma Systems for all associated costs incurred by Loma Systems, including reasonable attorney fees and court costs.
4. Credit Approval. All shipments are subject to approval by Loma Systems’ credit department. Loma Systems may invoice Purchaser and recover for each shipment as a separate transaction. If, in Loma Systems’ sole judgment, Purchaser’s financial condition is or becomes unsatisfactory, then Loma Systems may, without prejudice to any of its other remedies: (a) defer or decline to make any shipments except upon receipt of satisfactory security or cash payments in advance; and/or (b) terminate any or all of Purchaser’s purchase orders.
5. Cancellation or Modification. Loma Systems may cancel any purchase order or release thereunder, or terminate any agreement relating to the purchase of Loma Systems’ Products or Services upon reasonable prior written notice to Purchaser. Once Loma Systems has accepted a purchase order or begun taking actions with respect to a purchase order, Purchaser cannot cancel or modify that purchase order except with Loma Systems’ written consent. In such event, Purchaser will be liable for cancellation or modification charges and all costs incurred and committed for the order or in connection with the cancellation or modification, as applicable, together with a reasonable allowance for prorated expenses and anticipated profits.
6. Inspection / Non-Conforming Shipments. Purchaser must notify Loma Systems in writing of any Products that do not conform to the specifications applicable to their sale within ten calendar days after delivery and afford Loma Systems a reasonable opportunity to inspect such Products and cure any nonconformity. Purchaser may not return any Product without Loma Systems’ prior written authorization. Any return authorized by Loma Systems must be made in accordance with Loma Systems’ return policies. Purchaser will be responsible for all costs associated with returns of Products and will bear the risk of loss, unless Loma Systems agrees otherwise in writing or determines that the Products do not conform to the applicable terms of sale. Any variation in quantities shipped over or under those ordered (not to exceed 10%) will constitute compliance with Purchaser’s order, and the stated price per item will continue to apply.
7. Delivery. Loma Systems anticipates use of common carriers for shipment of Products. The carrier, and not Loma Systems, will bill for freight rates and other shipping charges. Payments for such charges shall be paid by Purchaser directly to the carrier, unless otherwise agreed upon. Products sold within the United States will be shipped ExWorks Loma Systems’ facility (Incoterms 2010). Products shipped to Canada will be shipped DDP Buyer’s designated location (Incoterms 2010). Shipping dates are approximate and are based upon prompt receipt of all necessary information from Purchaser. Loma Systems may ship items in a single or multiple shipments. Title to the Products and risk of loss shall pass to Purchaser upon

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delivery in accordance with the applicable shipping term. Purchaser assumes all risk and liability for loss and use or misuse by third parties who acquire or use the Products illicitly after delivery. Purchaser must notify Loma Systems and the delivering carrier within [15 business days] from date of receipt of Products, of any damage or shortage, and afford Loma Systems a reasonable opportunity to inspect the Products. Any loss occasioned by damage or shrinkage in transit will be for Purchaser's account, and claims for such loss must be made solely against the carrier.

8. Limited Warranty. Loma Systems warrants that it will convey the Products free and clear of all liens, security interests and encumbrances created by, through or under Loma Systems. Loma Systems further warrants that for a period of thirteen months from the date of delivery to the common carrier (the "Warranty Period"), under normal use and given proper installation and maintenance as determined by Loma Systems, the Products: (a) will conform to mutually agreed upon written specifications or other descriptions; and (b) will be free from substantial defects in material and workmanship.

In the event of a breach of the warranties set forth above (the "Warranties"), Loma Systems will, at Loma Systems' option and as Loma Systems' sole liability and Purchaser's sole remedy, repair, replace or credit Purchaser's account for, any Product that fails to conform to the Warranties, provided that (i) during the Warranty Period Loma Systems is promptly notified in writing upon discovery of such failure with a detailed explanation of any alleged deficiencies; (ii) Loma Systems is given a reasonable opportunity to investigate all claims; and (iii) Loma Systems' examination of such Product confirms the alleged deficiencies and that the deficiencies were not caused by accident, misuse, neglect, normal wear and tear, improper installation, unauthorized alteration or repair or improper testing. No Products may be returned to Loma Systems until inspection and approval by Loma Systems.

The Warranty against defects does not apply to: (1) consumable components or ordinary wear items; or (2) use of the Products with equipment, components or parts not specified or supplied by Loma Systems or contemplated under the Product documentation.

EXCEPT AS SET FORTH HEREIN, LOMA SYSTEMS MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE).

9. Service Warranty. Loma Systems warrants that (a) it will perform Services in a timely, competent and professional manner and in accordance with industry standards; (b) the Services shall conform to any mutually agreed upon specifications or statements of work for a period of 90 days from the completion of such Services, and (c) spare parts used in the provision of such Services will be free from substantial defects in material and workmanship for a period of 60 days from the completion of such Services. Purchaser's sole remedy, and Loma Systems' sole liability, for a breach of the foregoing warranty is for Loma Systems, at its option, to re-perform the Services or credit Purchaser's account for such Services. Purchaser is responsible for all travel expenses incurred by Loma Systems during the re-performance of any Services under this warranty.

10. Limitation of Liability and Remedies. LOMA SYSTEMS WILL NOT BE LIABLE, AND PURCHASER WAIVES ALL CLAIMS AGAINST LOMA SYSTEMS, FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, DOWN TIME, LOST PROFITS OR COMMERCIAL LOSSES, WHETHER OR NOT BASED UPON LOMA SYSTEMS' NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. IN NO EVENT WILL LOMA SYSTEMS' LIABILITY IN CONNECTION WITH THE AGREEMENT OR SALE OF LOMA SYSTEMS' PRODUCTS OR SERVICES EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCTS OR SERVICES AS TO WHICH THE CLAIM IS MADE.

11. Product Use. Purchaser is solely responsible for determining if a Product is fit for a particular purpose and suitable for Purchaser's method of application. Accordingly, and due to the nature and manner of use of Loma Systems' Products, Loma Systems is not responsible for the results or consequences of use, misuse or application of its Products. All physical properties, statements and recommendations are either based on the tests or experience that Loma Systems believes to be reliable, but they are not guaranteed.

12. Tooling/Molds/Dies. All material, equipment, facilities and special tooling (including tools, jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment and manufacturing aids and replacements thereof) used in the manufacture of the Products will remain the property of Loma Systems. Any material, tooling or equipment furnished to Loma Systems by Purchaser will remain the property of Purchaser with title to and right of possession remaining in Purchaser.

13. Ownership of Intellectual Property. All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights and other information or intellectual property created or developed by Loma Systems or disclosed or otherwise provided to Purchaser by Loma Systems and all rights therein (collectively, "Intellectual Property") will remain the property of Loma Systems and will be kept confidential by Purchaser in accordance with these Terms. Purchaser has no claim to, nor ownership interest in, any Intellectual Property, and such information, in whatever form and any copies thereof, shall be promptly returned to Loma Systems upon request from Loma Systems. Purchaser acknowledges that no

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license or rights of any sort are granted to Purchaser hereunder in respect of any Intellectual Property, other than the limited right to use Loma Systems' Products or receive the Services purchased from Loma Systems.

14. Use of Trademarks and Trade Names. Purchaser shall not use, directly or indirectly, in whole or in part, Loma Systems' name, or any other trademark or trade name that is now or may hereafter be owned by Loma Systems (collectively the "Trademarks"), as part of Purchaser's corporate or business name, or in any way in connection with Purchaser's business, except in a manner and to the extent authorized herein or otherwise approved by Loma Systems in writing. Purchaser hereby acknowledges Loma Systems' ownership of the Trademarks and the goodwill associated therewith. Purchaser shall not infringe upon, harm or contest the validity of any Trademarks. Purchaser shall be entitled to use the Trademarks only in connection with the promotion or sale of the Authorized Products pursuant to the terms of the Agreement. Purchaser shall reproduce the Trademarks exactly as specified by Loma Systems. Purchaser shall not use the Trademarks in combination with any other trademarks or names. Purchaser agrees that it will not register or attempt to register any Trademark or any colorable imitation thereof (including any non-English language variation thereof), or use such Trademarks for any products or for any purposes other than those set forth in the Agreement. Purchaser shall not at any time during or after termination of the Agreement use in its business any other trademark that is similar to or in any way resembles the Trademarks so as to be likely to cause deception or confusion with the Trademarks. Purchaser shall provide reasonable cooperation to Loma Systems with respect to any efforts of Loma Systems to protect, defend or enforce its rights to the Trademarks. Should Purchaser cease being an authorized customer of Loma Systems for any reason, Purchaser shall immediately discontinue any formerly permitted use of Loma Systems' name or the Trademarks.

15. Software. Loma Systems shall at all times have and retain title and full ownership of all software, firmware, programming routines, and documentation thereof supplied by Loma Systems for use with the Products, and of all copies thereof made by Loma Systems (collectively, the "Software"). Loma Systems grants Purchaser a non-exclusive and non-transferrable license to use the Software solely with the Products. Purchaser shall take all reasonable steps to protect Loma Systems' proprietary interest in the Software and shall not transfer or otherwise provide or sub-license the Software to any third party.

16. Confidential Information. All information furnished or made available by Loma Systems to Purchaser in connection with the subject matter hereof shall be held in confidence by Purchaser. Purchaser agrees not to use (directly or indirectly), or disclose to others, such information without Loma Systems' prior written consent. The obligations in this section will not apply to any information that: (a) at the time of disclosure was or thereafter becomes generally available to the public by publication or otherwise through no breach by Purchaser of any obligation herein; (b) Purchaser can show by written records was in Purchaser's possession prior to disclosure by Loma Systems; or (c) is legally made available to Purchaser by or through a third party having no direct or indirect confidentiality obligation to Loma Systems with respect to such information.

17. Audit. Unless agreed to in writing by an officer of Loma Systems, neither Purchaser nor any Purchaser representative, may examine or audit Loma Systems' cost accounts, books or records of any kind or any matter, or any other data that Loma Systems, in its sole discretion, considers confidential or proprietary.

18. Infringement and Indemnification. Except as set forth below, Loma Systems agrees to defend and indemnify Purchaser against any claims, costs, damages, liability and expenses resulting from actual patent, trademark or copyright infringement, misappropriation of confidential information, or violation of any other Intellectual Property right, domestic or foreign that may arise from the sale of Loma Systems' proprietary Product to Purchaser as such pertains to the subject matter of the Agreement (each, a "Claim"); provided, however, (a) Purchaser supplies Loma Systems written notice of such Claim immediately after the Purchaser has notice of such Claim, (b) Purchaser cooperates with Loma Systems in the defense and settlement of such Claim; and (c) Purchaser allows Loma Systems the right to defend and settle such Claim at Loma Systems' expense. If a suit or claim results in any injunction or order that would prevent Loma Systems from supplying any part or Product falling under the Agreement, or if the result of such a suit or claim would, in the reasonable opinion of Loma Systems, otherwise cause Loma Systems to be unable to supply such parts or Products, Loma Systems may do one or more of the following: (i) secure an appropriate license to permit Loma Systems to continue supplying those parts or Products; (ii) modify the appropriate part or Product so that it becomes non-infringing; (iii) replace the appropriate part or Product with a non-infringing but practically equivalent part or Product; or (iv) if Loma Systems cannot reasonably accomplish the actions specified in subsections (i) – (iii), then in Loma Systems' sole discretion, Loma Systems may discontinue selling the part or Product without any further liability to Purchaser. Notwithstanding the foregoing, Loma Systems shall have no liability or duty to defend and indemnify Purchaser against any Claim relating to: (1) the use of any part or Product, (2) the combination of any part or Product with any other part or product not supplied by Loma Systems, or (3) any part or Product or process that is designed or specified by Purchaser.

19. Loma Systems Employees. Loma Systems sales and service employees do not have the training or authority to make legal representations or enter into any agreements or execute any Purchaser documents affecting legal responsibilities or

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waiving legal rights, including those regarding the transfer of intellectual property rights or related to privacy laws. Any such representations, agreements or documents will not be binding on Loma Systems or such Loma Systems employees.

20. Service Terms. The following terms and conditions apply to any on-site Services provided by Loma Systems:

A. Services will be provided at Loma Systems' then current service rates.

B. Purchaser shall prepare the site for the Services. If the site is not prepared for the Services upon Loma Systems service personnel's arrival at the agreed upon time and date for Services, Loma Systems may charge Purchaser for any delay and/or travel time at Loma Systems' regular service rates.

C. Purchaser shall provide Loma Systems with advance notice of any rules, regulations, statutes and requirements applicable to the Services, including any required permits and licenses, that are applicable to Purchaser's local jurisdiction.

D. Loma Systems may refuse, without any liability, to provide Services and to allow Loma Systems service personnel to suspend Services or vacate any site where, in Loma Systems' opinion, performance of Services would pose a risk to the safety of any person. In such event, Purchaser is responsible for payment of any delay and/or travel time at Loma Systems' regular service rates.

E. Purchaser is solely liable for all damages or injuries caused or contributed to by Purchaser that may occur on the site, except to the extent damages or injuries are directly caused by the gross negligence or willful misconduct of Loma Systems service personnel.

F. Purchaser must provide at least 24 hours' notice of cancellation of any Service order. If Purchaser cancels with less than 24 hours' notice, Purchaser is responsible for any costs incurred by Loma Systems caused by such cancellation.

21. Compliance. Purchaser agrees to comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Purchaser's obligations hereunder and Purchaser's use of the Products and Services, including import/export laws, labor laws and anti-corruption laws.

22. Relationship of the Parties. Nothing in the Agreement or the course of dealing of the parties may be construed to constitute the parties hereto as partners, joint venturers or as agents for one another or as authorizing either party to obligate the other in any manner.

23. Force Majeure. Loma Systems will not be responsible for failure to perform in a timely manner under the Agreement when its failure results from events beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, acts of war whether declared or undeclared, blockades, labor disputes (whether of Loma Systems' employees or the employees of others), raw material shortages and material increases in costs of raw materials. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable Loma Systems to perform.

24. Assignment; Binding Effect. No assignment of any rights or interest or delegation of any obligation of Purchaser under the Agreement or Purchaser's purchase order may be made without Loma Systems' prior written consent. Any attempted assignment will be void. Loma Systems may assign the Agreement or otherwise transfer its rights and/or obligations under the Agreement. The Agreement will inure to the benefit of and be binding upon the parties and their respective permitted successors and assigns.

25. Waiver. In the event of any default by Purchaser, Loma Systems may decline to ship Products or provide Services. If Loma Systems elects to continue shipping or otherwise fails to insist upon strict compliance with the Agreement, Loma Systems' actions will not constitute a waiver of Purchaser's default or any other existing or future default, or affect Loma Systems' legal remedies.

26. Bankruptcy. If either party becomes insolvent, is unable to pay its debts when due, files for or is the subject of involuntary bankruptcy, has a receiver appointed or has its assets assigned, the other party may cancel any unfulfilled obligations hereunder.

27. Limitation of Actions/Choice of Law. Any dispute arising out of or related to the Agreement will be governed by and construed according to the laws of the state of Illinois and litigated exclusively in a state or federal court located in Cook County, Illinois. The parties hereto expressly release and waive any and all rights to a jury trial and consent to have any dispute heard solely by a court of competent jurisdiction. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement.

28. Survival. Any provisions in the Agreement which, by their nature, extend beyond the termination or expiration of any sale of Products or Services, will remain in effect until fulfilled.

29. Severability. If any provision herein is held to be unlawful or unenforceable, the remaining provisions herein will remain in effect.

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30. Integration and Modification. The Agreement constitutes the entire agreement between Loma Systems and Purchaser with respect to the Products and Services covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless in writing and signed by the party to be bound thereby.