

FCL COMPONENTS AMERICA, INC.
TERMS AND CONDITIONS OF SALE – EFFECTIVE FEBRUARY 1, 2024

1. ACCEPTANCE OF ORDER. These terms and conditions of sale ("Terms") set forth the terms and conditions pursuant to which the purchaser ("Purchaser") will purchase and FCL Components America, Inc. ("FCAI") will sell the components identified herein (the "Product"). All purchase orders of Purchaser shall, unless otherwise agreed in writing by FCAI, be in writing and set forth the quantity of the Products desired, the specifications therefor, the desired delivery date, and all other relevant information necessary to effectuate shipment of the Products by FCAI. FCAI's sale of any Products is expressly conditioned on Purchaser's assent to these Terms. Any acceptance of FCAI's offer is expressly limited to acceptance of these Terms. Any purchase order from Purchaser to FCAI shall constitute Purchaser's assent to these Terms. Any additional, inconsistent or contrary terms provided by Purchaser are hereby rejected and shall not become part of this agreement or any sale of Products to Purchaser unless specifically accepted in writing by an authorized representative of FCAI. Purchaser waives its rights to revoke acceptance after a period of 5 business days after Purchaser's inspection of Product or 30 days from delivery of Product, whichever is earlier. Purchaser may not cancel or modify such order, in whole or in part, without the express written consent of FCAI.

2. PRICES AND TAXES. The prices shown are F.O.B. (Uniform Commercial Code) FCAI's facility in San Jose, California, based on continuous manufacture for the rates of delivery specified. Purchaser will pay all additional costs incurred by FCAI due to interruptions, engineering changes or modifications caused or requested by Purchaser.

All prices are quoted, all orders accepted, and all billings rendered exclusive of federal, state and local excise, sales, use, and similar taxes, The amount of any present or future excise, sales, use, manufacturer's or state or local privilege, or similar tax applicable to the sale of the Product hereunder, or to this Agreement, shall be paid by Purchaser. Such taxes, when applicable, will appear as separate additional items on the invoice/order acknowledgments unless FCAI receives a proper tax exemption certificate from Purchaser prior to shipment.

Notwithstanding any price quotation previously provided to Purchaser, the minimum charge per order is \$250.00.

3. PAYMENT. The terms of payment shall be specified on FCAI's quotation. Terms listed as "net" are due within the number of days shown, as measured from date of invoice. With acceptable credit references, FCAI's standard terms are net 30 days. Each invoice will be dated the date of delivery of the Product to a carrier in accordance herewith. Purchaser shall pay FCAI promptly on demand interest on overdue accounts at the maximum rate permitted by law. Purchaser shall reimburse FCAI for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees.

If shipment or manufacture is delayed by Purchaser, payment shall become due on the date when FCAI is prepared to make shipment, or the date on which manufacture is delayed and such payment shall be made based on the contract price and the percentage of completion. Products held by FCAI for Purchaser by reason of Purchaser's delay shall be held at the risk and expense of Purchaser.

If, in the judgment of FCAI, the financial condition of Purchaser at any time does not justify continuance of production or shipment upon the terms of payment specified, FCAI may require full or partial payment in advance, and in the event of bankruptcy or insolvency of Purchaser, or in the event any proceeding is brought by or against Purchaser under any bankruptcy or insolvency laws, FCAI shall be entitled to cancel any order of the Purchaser then outstanding and shall receive reimbursement from the Purchaser for its cost to date of cancellation.

4. DELIVERY AND RISK OF LOSS. All Products shall be deemed delivered to Purchaser when placed in the hands of a common carrier at FCAI's facility in Sunnyvale, CA. Purchaser assumes all risk of loss from the time the Products are so delivered. FCAI will exercise its discretion in selecting the method of shipment unless otherwise specified by Purchaser. Shipping dates, if any, are approximate and are based on the prompt receipt by FCAI of all necessary information from Purchaser.

5. LIMITED WARRANTY; LIMITATION OF LIABILITY.

FCAI warrants all Products against defects in materials and workmanship for a period of twelve (12) months from date of delivery in accordance with these Terms (the "Limited Warranty"). FCAI's liability and Purchaser's remedies under this Limited Warranty are limited (at FCAI's discretion) solely to replacing, or repairing, or issuing a refund or credit for the purchase price, if paid, for such Product that was defective at the time delivered to Purchaser, provided that FCAI will not be liable under this Limited Warranty unless: (i) FCAI is promptly notified in writing upon the discovery of defects by Purchaser; (ii) the defective unit is returned to FCAI, transportation charges prepaid by Purchaser in compliance with industry standard packaging requirements and is accompanied by FCAI's Material Return Authorization ("MRA") Form or MRA Form Number, which FCAI will issue in its reasonable discretion; (iii) the defective Product is received by FCAI for adjustment no later than thirteen (13) months following the date on which such Products were delivered by FCAI; and (iv) FCAI's examination of such units shall disclose, to its satisfaction, that such defects have not been caused by misuse, neglect, improper installation, repair, alteration, accident, improper storage or other action or inaction beyond reasonable practice for such Product. It is understood that FCAI has no obligation to provide or cover the expense of field repairs of any allegedly defective Products unless terms for such repairs have been separately agreed in writing between FCAI and Purchaser. **THE LIMITED WARRANTY SET FORTH IN THIS SECTION IS IN LIEU OF, AND EXCLUDES ANY OTHER REPRESENTATIONS, GUARANTEES AND WARRANTIES OF FCAI, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.** FCAI's Limited Warranty shall not be enlarged, diminished or affected by, and no obligation or liability shall arise or grow out of, FCAI's rendering of technical advice or service in connection with Purchaser's order for the Products furnished hereunder. No person, firm corporation is authorized to assume for FCAI any expanded liability in connection with this contract, or the sale of Product hereunder. **IN NO EVENT SHALL FCAI BE LIABLE TO PURCHASER FOR LOSS OF PROFITS, LOSS OF USE, OR CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES OF ANY KIND, WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, INDEMNITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY AND WHETHER OR NOT SUCH FCAI IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF FCAI ARISING OUT OF OR RELATED TO THE PRODUCTS SOLD HEREUNDER AND/OR THIS CONTRACT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, INDEMNITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY, EXCEED THE TOTAL PURCHASE PRICE OF ALL PRODUCTS DELIVERED UNDER THE ORDER GIVING RISE TO THE CLAIM. NO PERSON, FIRM, NOR CORPORATION IS AUTHORIZED TO ASSUME FOR FCAI ANY OTHER LIABILITY IN CONNECTION WITH THIS CONTRACT, OR THE SALE OF THE PRODUCTS COVERED HEREUNDER.**

6. INTELLECTUAL PROPERTY RIGHTS; PROPRIETARY INFORMATION. Purchaser shall indemnify, defend and hold FCAI, its officers, directors, employees, agents, parent, affiliates, successors and permitted assigns harmless against any expenses, damages, costs or losses of whatever kind, including attorney's fees, resulting from any suit or proceeding brought for infringement of any intellectual property rights ("IPR"), including but not limited to, patents, mask work right trademarks, copyrights, trade secrets or trade name, or for unfair competition arising from FCAI's compliance with Purchaser's designs, specifications, or instructions.

"Proprietary Information" shall mean all technology, concepts, product design, research and development data, formulae, methods, techniques, know-how, processes, information, trade secrets, inventions (whether or not patented or patentable) and similar information. FCAI shall have exclusive right, title and interest in and to all Proprietary Information of FCAI (whether or not paid for by Purchaser in connection with the price of the Product or otherwise). Purchaser shall not copy, reproduce, reverse engineer, transfer, assign, sublicense, loan, disclose or otherwise make available any Proprietary Information of FCAI to any person or other entity, without the prior written consent of FCAI. The sale of Product hereunder shall not confer on the Purchaser a license to any IPR or Proprietary Information of FCAI or any other entity covering or relating to (a) the Product, or (b) the structure of any devices to which the Product or parts may be applied, or (c) a process or machine in connection with which they may be used.

7. CONTINGENCIES. FCAI shall not be liable for any failure to perform or delay in performance caused by circumstances beyond its reasonable control, including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, labor disputes, labor shortages, embargoes, or failure or delays in transportation, inability to secure raw materials, components or machinery, acts of God, acts of any national state, provincial or local government authority, whether or not valid, and judicial action, whether or not valid. In the event of FCAI's inability due to circumstances beyond its reasonable control to supply the total demand for the Product, FCAI may allocate its available supply among any and all of its Purchasers as FCAI deems fair and practical without liability to Purchaser for, any failure of performance which may result therefrom.

FCAI's Products are not designed for use in medical or life support appliances, devices, or systems where malfunction of a product can reasonably be expected to result in a personal injury. Purchasers using or selling products for use in life support applications do so at their own risk and FCAI shall be fully indemnified for any damages, liability, loss, cost, attorney's fees and other expenses resulting from such use or sale.

8. NONWAIVER OF DEFAULT. No act, or failure to act, of FCAI subsequent to Purchaser's default under the terms of this contract shall be construed, interpreted implied, or assumed to be a waiver of such default. FCAI may, at its sole option elect to continue shipments or stop shipments, treat the order as terminated in whole or part, or accelerate delivery of the balance of shipment under the order. No claim or right of FCAI arising out of a breach of this contract by Purchaser can be discharged in whole or in part unless by specific writing signed by FCAI.

9. ASSIGNMENTS. Any contract made hereunder shall be binding upon and inure to the benefit of the successors and assigns of Purchaser and FCAI but shall not be assigned by Purchaser, voluntarily or involuntarily, without the written consent of FCAI.

10. SECURITY INTEREST. To secure any indebtedness due and owing from Purchaser from time to time, Purchaser hereby grants to FCAI, and FCAI hereby reserves unto itself, a continuing purchase money security interest in any and all Products heretofore or hereafter sold or delivered to Purchaser by FCAI and any proceeds thereof. Purchaser shall at no time grant any lien or other interest in the Products contrary to FCAI's security interest. Purchaser hereby authorizes and shall cooperate in the preparation, signing and filing of financing statements necessary to evidence and perfect FCAI's security interest as described above. If Purchaser fails to make any payment of or on account of the purchase price when due, FCAI may, at its option, take exclusive possession of the Products wherever found and remove the Products without legal process, and Purchaser shall reimburse FCAI for all removal fees, expenses or costs of repossession and collection, including reasonable attorneys' fees.

11. EXPORT/REEXPORT. Purchaser will not in any form export, reexport, resell, ship or divert or cause to be exported, reexported, resold, shipped or diverted, either directly or indirectly, any Product or technical data or software furnished hereunder or the direct product of such technical data or software to a country for which the laws of the United States require an export license or other governmental approval, without first obtaining such license or approval.

12. CUMULATIVE REMEDIES. All rights and remedies of FCAI provided in these Terms are cumulative and not exclusive, and the exercise by FCAI of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute or in any other agreement between the parties.

13. GENERAL. These Terms and each order made hereunder shall be governed by the laws of the State of California, without giving effect to its conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to any order hereunder. Any suit, action or proceeding arising out of or relating to these Terms and each order made hereunder shall be instituted in a state or federal court located in the County of Santa Clara, State of California, and Purchaser irrevocably consents and waives all objections to the exclusive jurisdiction and venue of such courts in any such suit, action or proceeding. In the event FCAI brings any proceeding to enforce its rights hereunder including for any breach of any of the provisions of these Terms or any order made hereunder, FCAI will be entitled in such proceeding to recover its reasonable attorneys' fees together with the costs and expenses of such proceeding. Any and all claims by Purchaser arising out of or related to the Products must be filed within one (1) year of delivery of such Products and shall thereafter forever be barred. If any provision hereunder is determined to be unenforceable, the remaining provisions shall remain in full force and effect. These Terms, together with any quotations, order confirmations or invoices provided by FCAI, constitute the entire agreement between Purchaser and FCAI with respect to the purchase and sale of the Product, and no representation or statement, promise, course of dealing or trade usage not contained herein shall be binding upon FCAI. No addition to or modification of any of the foregoing Terms, this contract or any part hereof shall be binding upon FCAI unless made in writing and signed by a duly authorized representative of FCAI.