



UNILUX ADVANCED MANUFACTURING, LLC

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**STANDARD TERMS AND CONDITIONS  
FORM STC-0120-R09  
Effective JAN 2020**

1. QUOTATION, INCLUDING SUBSEQUENT PAGES AND APPLICABLE ATTACHMENTS, IF ANY, TOGETHER WITH STANDARD TERMS AND CONDITIONS AND STANDARD LIMITED WARRANTY, IS AN OFFER FOR SALE OF CERTAIN PRODUCT EQUIPMENT, PARTS AND COMPONENTS, EXPIRING THIRTY (30) DAYS FROM THE DATE INDICATED, UNLESS OTHERWISE INDICATED, OR WITHDRAWN. Each and every item description of equipment, parts and components contained therein and provision of quotation shall be expressly limited to same and shall be incorporated in and made an integral part of any order or contract or any transaction involved therein resulting from quotation by specific written reference to same quotation, its date of issue and revision level, if applicable. QUOTATION IS MADE FOR PROMPT ACCEPTANCE AND SUBJECT TO CHANGE OR WITHDRAWAL BY UNILUX ADVANCED MANUFACTURING, LLC (herein referred to as 'the Company') PRIOR TO ACCEPTANCE. Unless acknowledged otherwise, orders are accepted for immediate release to manufacture product of standard equipment, parts and components design. Acknowledged Orders which are subject to, or conditional of, an authority review and/or approval process, thus requiring Purchasers Authorization to Release and/or Fabricate, no claim is made or implied as to conformance to specifications which materially differ to product of standard equipment, parts and components design. The Company, and/or its supply chain vendors, reserves the right to deliver substituted equipment, parts and components of equal value and/or performance due to availability, obsolescence, method or change in manufacture or continuous improvement. No understanding, other than as is specifically set forth, shall be binding upon the Company. Should there be a conflict between these Conditions and provisions of the Company quotation and the Purchaser's purchase order or contract provision, or any transaction involved therein, the Company quotation Conditions and provisions shall prevail. In accordance with UCC Section 2-207, the Company hereby expressly objects to any terms and conditions that is in addition to and different to terms and conditions as provided for herein. The Company acts in its own name, trade names and through its various product divisions, including without limitation: UNILUX®, EVOLV® and FORCE POWER®.

2. In the quotation or performance of order or contract or any transaction involved therein, no Sales Representative, Sales Engineer, Distributor, or any other person or entity is authorized to make any change or alteration to Conditions or to the contents of any brochure, literature, price list, or other Company document(s) without approval, in writing, from the Company, at its principal office in Niskayuna NY USA. The quotation or performance of order or contract or any transaction involved therein is further subject to errors, omissions, typographical errors, quantity, equipment, parts and components capacity selection and utility, English Language interpretation and shall be construed together with, in strict accordance, governed and superseded by, the most current issue of the applicable and prevailing English Language Version of quotation including subsequent pages and attachments, if any, which is in effect at time of sale.

3. Unless otherwise provided for in Quotation, any Federal, State, Municipal taxes and/or export/import duties now or hereafter imposed with respect to quotation or any order or contract or any transaction involved therein or any production, treatment, manufacture, sale, delivery, shipment, transportation transfer, or resultant installation shall be paid by the Purchaser; or if paid, or required to be paid by the Company, the amount thereof shall be added to and become an additional part of the price paid by the Purchaser thereunder.

4. UNLESS OTHERWISE SPECIFIED, TERMS OF PAYMENT SHALL BE NET THIRTY (30) DAYS FROM DATE OF SHIPMENT, OR FROM DATE OF NOTIFICATION OF AVAILABILITY FOR SHIPMENT, PER ORDER SCHEDULE, WHEN SHIPMENT AND/OR DELIVERY IS REFUSED OR POSTPONED FOR ANY REASON BY PURCHASER. In the event of Purchasers' advice of shipment delay, the Company may elect to place product in storage outside the Company's premise for the account and risk of Purchaser for loss and subsequent charges. In the sole judgment of the Company, full payment in cash prior to shipment may be required. Please note that extended storage charges may apply. If payment is not made in full and in a timely manner as specified or required, the amount due shall bear interest at a rate of 1-1/2% per month or the applicable legal rate of interest limit, if any, in the Purchaser's State or Province from the date the payment is due until paid in full. Purchaser agrees to pay all reasonable attorneys' fees, court costs and other expenses actually incurred by the Company collecting amounts due under any resultant order or contract or any transaction involved therein.

Due to the nature of project specific and/or custom manufactured product, material and component costs and availability and equipment design and fabrication, unless otherwise specified and to secure established price, advance payment at time of order issuance, or release for fabrication authorization, together with fabrication progress payments shall be required. Release for manufacture or fabrication will not commence until receipt of initial advance payment.

In the event that a Documentary Letter of Credit is required, the terms and conditions of the effective Standard Form of Instruction for the Issuance of Documentary Letter of Credit shall apply and same shall be issued in strict accordance with the most current and accepted edition of the International Chamber of Commerce - ICC Uniform Customs and Practice for Documentary Credits. Release for fabrication will not commence until receipt of initial advance payment and Documentary Letter of Credit is established.

The Company accepts only \$USD Transactions, by Wire Transfer Transaction pursuant to Standard Form of Instruction for Wire Transfer Transactions, Company or Bank Check – Payable to: UNILUX ADVANCED MANUFACTURING, LLC, or MasterCard / VISA / AMEX Credit Card Information, accompanied by completed Credit Card Authorization Form. Please note that all Credit Card charges are immediate, and upon acceptance, will be applied towards the Order transaction.



5. Order or contract or any transaction involved therein is subject to credit worthiness approval and, once accepted by the Company, cannot be countermanded or canceled by Purchaser except with the written consent of the Company and upon terms that will fully indemnify and compensate the Company for all loss, cost, and expense. The Company shall have the right to terminate, or discontinue, its performance under any order or contract or any transaction involved therein, if the Purchaser fails to perform any of its obligations thereunder. Order or contract or any transaction involved therein may be, at the Company's discretion, subsequently cancelled or terminated, and/or subject to price adjustment, should Purchaser fail to authorize release to manufacture within six (6) months from Order Acknowledgement. Such rights of adjustment, termination or discontinuance of performance shall be in addition to, and not in lieu of, any other rights or remedies which the Company may have in law, equity, or by contract.

6. If an order or contract or any transaction involved therein requires or provides for 'in-field' assembly, installation or start-up/commissioning services provided by, or coordinated by the Company through an authorized third party 'in-field' service provider, for equipment, parts and components strictly limited to and covered by quotation, as expressly limited to and provided for on the face of quotation together with incorporation of any attached specification or supplemental condition, the order or contract or any transaction involved therein shall require acceptance and approval, in writing, from the Company, at its principal office in Niskayuna NY USA. Such services shall cover and shall be strictly limited to only the initial installation or start-up/commissioning services of the purchased equipment, whether for the Purchaser or Purchaser's contractors, clients, customers, tenants, architects, engineers, or agents. All subsequent and additional 'in-field' services will be charged to the Purchaser's account at the Company prevailing rates for labor, materials, components and expenses. If such original installation or start-up/commissioning services provided by, or coordinated by the Company are delayed or hindered by the Purchaser, those acting on behalf for the Purchaser or general lack of coordination or accommodation, and that delay or hindrance results in additional expense, loss, damage, or costs to the Company, the Purchaser shall compensate the Company for same in full.

7. The Company shall not be liable for any damages, however arising, for any failure to deliver, or for any delay in delivery, if such failure or delay is caused by events beyond the control of the Company, including without limitation: force majeure, Purchaser's failure to provide relevant technical information, approval documentation, release to manufacture authorization, change in scope of supply and/or schedule, strikes, labor disputes and availability, delay or failure by outsource vendors in delivering components and materials, delays in transportation, delays in communication modes, shortage of and availability of fuel and utility, inability to obtain material, acts of God, acts or laws or regulations of Federal, State, or Local Governments, riots, war, hostilities, act of a public enemy, fire, accidents, etc. If indicated on face of quotation, anticipated equipment, parts and components availability and shipment date is an estimation of the Company's expectation of ability to fulfill order or contract or any transaction involved therein based on component and material availability and production load at time of quotation issue and may not be as indicated on face of quotation at time of purchase and/or authorized release for fabrication and is therefore subject to anticipated availability and shipment at time of authorized release for fabrication.

8. THE COMPANY SHALL NOT BE LIABLE FOR INCREASED MANUFACTURING OR INSTALLATION COSTS, LOSS OF PROFITS OR GOODWILL, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, OR SECONDARY DAMAGES HOWEVER ARISING, and shall be immediately compensated for incurred costs, because of: a) delays in release to manufacture or delivery; b) non-performance under any order or contract or any transaction involved therein resulting from quotation; c) defects in material or workmanship; d) price adjustment of equipment, parts and components not of the Company's manufacture; or e) any other conditions, actions or non-actions, however arising, or for any cause whatsoever.

9. Until Purchaser has paid the entire purchase price and any other or additional charges, all equipment, parts and components covered herein or furnished on any order or contract or any transaction involved therein shall at all times, be and remain, as security interest, personal property of the Company, whatever may be their mode of attachment to realty or otherwise, as security for the purchase price and other obligations of the Purchaser; the sole title to and right of possession of such equipment, parts and components shall remain in the Company, or its assignee, until full and final payment thereof shall have been made in accordance with the terms specified.

Any subsequent change order add, or deduct, which without limitation, materially alters order quantity, performance criteria, configuration and/or scope shall be deemed an acceptance of and all equipment and/or services provided hereunder and any subsequent change order add, or deduct shall effect price and availability of same.

10. Claims for shortages, variances, or defects in equipment, parts and components furnished under any order or contract or any transaction involved therein must be presented to the Company in writing within fifteen (15) days after the shipment of equipment, parts and components by the Company to Purchaser or Purchaser's consignee. Claims for shortages, or for damages, relating to shipment and delivery shall be immediately acknowledged and directly presented to freight carrier service provider by Purchaser or Purchaser's consignee.

11. Unless specifically provided for on the face of the quotation, Equipment shall ship FCA – Free Carrier (Loaded) Point of Shipment, Freight Pre-Paid and Add. An estimated cost and transit time of a freight carrier service provider may be incorporated within quotation and subsequent order or contract or any transaction involved therein. Please note this is an estimate, and actual cost and transit time is subject to availability, freight rates, mileage and/or fuel surcharges, export/import duties and documentation and transit limitations which are in effect at time of shipment. The determined mode of transport shall be as defined by the International Chamber of Commerce – ICC Incoterms® 2010. The Company, or Purchaser's, nominated carrier or freight forwarding agent, shall be responsible for associated costs, coordination and delivery of applicable insurance(s), permitting, customs clearance(s), equipment, parts and components securing, tie-down and in-transit protection. Heavy/specialized freight haul applications may require Purchaser, upon receipt of equipment, parts and components, to facilitate and provide assistance to nominated freight carrier service provider for assembly, disassembly and consolidation of transport equipment. When applicable, shipping and/or operating weights of equipment, parts and components, are approximate and provided for convenience and/or guidance and are not guaranteed by the Company.

12. The Company shall not be liable for any loss or damage or expense caused by: a) improper receipt, handling, storage or protection of the equipment, parts and components subsequent to delivery by the Company to a freight carrier service provider, nominated by the Company or by Purchaser or Purchaser's agent; b) failure of Purchaser to comply with Company instructions concerning installation, start-up/commissioning, operation, maintenance and safety; c) failure of Purchaser to provide adequate and proper utility, ancillary support and system connections, water quality programs, safety procedures and programs and training programs; d) failure of Purchaser to assign knowledgeable and competent installation, operation and maintenance personnel to the equipment, parts and components furnished herein; or e) failure of Purchaser to promptly bring to the attention of the Company any matters not fully understood or points of conflict or error discovered in installation, operation or maintenance instructions. PURCHASER ACKNOWLEDGES THAT EQUIPMENT, PARTS AND COMPONENTS CONTAINED WITHIN QUOTATION AND ANY ORDER OR CONTRACT OR ANY TRANSACTION INVOLVED THEREIN, INCLUDING WITHOUT LIMITATION, VENTILATION, HOT WATER/STEAM GENERATION, COMBUSTION AND POLLUTION CONTROL EQUIPMENT AND ANCILLARY SUPPORT SYSTEMS, PROGRAMS AND PROCEDURES HAVE, WHEN NOT PROPERLY INSTALLED, OPERATED, MAINTAINED AND SUSTAINED, INHERENT HAZARDS OF PLUGGING, DETERIORATION, CORROSION, FIRE AND EXPLOSION WHICH MAY RESULT IN SERIOUS PROPERTY DAMAGE, PERSONAL INJURY OR DEATH. PURCHASER AGREES TO EMPLOY ALL NECESSARY AND REQUIRED MEANS TO ASSURE INSTALLATION, OPERATION AND MAINTENANCE OF EQUIPMENT, PARTS AND COMPONENTS FURNISHED HEREIN WHICH SHALL PREVENT SUCH HAZARDS FROM OCCURRING.

13. Equipment, parts and components furnished by the Company includes various safety, performance, temperature, pressure and operating parameters and limitations. Any actions by Purchaser, Purchaser's personnel, or persons acting on Purchaser's behalf which nullify or change such parameters and limits WILL BE TAKEN AT PURCHASER'S SOLE RISK AND RESPONSIBILITY AND WILL VOID THE COMPANY'S WARRANTY AND PERFORMANCE REPRESENTATIONS, IF ANY, AND THUS SHALL RELIEVE THE COMPANY OF ALL LIABILITIES WITH RESPECT TO SAME.

14. A Standard Limited Warranty shall be provided, to the original Purchaser only, for the equipment, parts and components identified in quotation and/or the order or contract or any transaction involved therein, which shall be expressly limited to and subject to the terms and conditions of the Standard Limited Warranty in effect at time of sale.

15. Compliance with Federal, State, Provincial, Local or other safety, environmental, permitting, licensing, certification or performance statutes, ordinances rules or regulations is expressly limited to and is the Company's responsibility only to the extent as specifically provided for on the face of quotation, and then only with respect to statutes, ordinances, rules or regulations published and in force as of the date indicated on the face of quotation. Unless specifically provided for on the face of the quotation, the Company expressly rejects participation in, or provision of Licensed Professional Engineer, for such field tests, controlled inspections, filing for or obtaining Federal, State, Provincial, Local or other safety, environmental, permitting, licensing, certification or performance documentation. The Company shall be provided with copies of any relevant field testing, controlled inspection or documentation associated with equipment furnished. Factory Acceptance Tests, Progress and Product Transfer Inspections, and associated reports, are subject to additional charges and shall be conducted in accordance with the Company's established procedures at time of same.

16. The Company expressly rejects, and therefore shall not be subject to, general terms, conditions and/or statements contained within any order or contract or any transaction involved therein which incorporates, provides for, infers, indicates or attempts to subject the Company to, without limitation: a) liquidated damages or penalties; b) performance which shall be in accordance with plans and specifications; c) information provided as being sufficiently complete or reasonably inferable; d) time is of essence; e) collateral damage; f) shall hold harmless and indemnify Purchaser and/or its assigns; g) partial or final lien waiver which limits or prevents the Company right of claim; h) change in project scope or schedule which limits or prevents the Company right of claim; i) force majeure, however arising, which limits or prevents the Company right of claim; j) acceptance by Owner; k) payment retainage in whole or part; l) Purchaser's, Owner's or Surety's reservation of rights and defenses; m) use of Company's product equipment, parts and components in any system or process which may infringe on patents rights of others; n) prime contract, and/or modifications thereof, between Purchaser and Owner / End User and/or its Representatives and assigns; o) information, documents, exhibits, plans and/or specifications, codes and/or standards for which the Company did not rely upon, was not knowledgeable of, or privy to.

17. In the quotation or performance of order or contract or any transaction involved therein, equipment, parts and components, information and/or technology contained therein is provided in accordance with the US Bureau of Industry and Security (BIS) - Export Administration Regulations (EAR). Use and/or diversion, contrary to regulations established by BIS-EAR and/or sanctions administered by the US Department of the Treasury - Office of Foreign Assets Control (OFAC), is strictly prohibited.

18. Any lack of enforcement or performance, in whole or part, at the Company's discretion, with respect to these terms and conditions shall not be construed as a waiver of same terms and conditions or any other rights or remedies which the Company may have in law, equity, or by contract. Any order or contract or any transaction involved therein, which is accepted by the Company, shall be governed by and construed in accordance the laws of the State of New York USA, without giving effect to such jurisdictions principles of conflicts of law. Disputes shall be submitted to arbitration, in accordance with the rules of the American Arbitration Association, and any such proceedings shall occur in the State of New York USA. Parties agree to abide by any award rendered by the arbitrator(s), which award may be entered in any court of competent jurisdiction.

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