

COLONY HARDWARE CORPORATION
TERMS & CONDITIONS OF SALE
(PRODUCTS MANUFACTURED OR FABRICATED BY OTHERS AND SPECIFIED SERVICES)
REVISED JUNE 16, 2022

1. TERMS AND CONDITIONS. The offer of materials, equipment, tools, goods, supplies and services by Colony Hardware Corporation, a Delaware corporation (“Seller”) to the party identified on the accompanying Sales Order (the “Buyer”) is subject to the following Terms & Conditions of Sale (the “Terms & Conditions”). These Terms & Conditions are also published online at www.colonyhardware.com/about-us. Seller rejects any different or additional terms or conditions in any purchase order, other document or other communication issued by Buyer. These Terms & Conditions and the accompanying Sales Order constitute a single integrated and binding contractual agreement between Seller and Buyer.

2. SHIPMENT; DELIVERY; TITLE AND RISK OF LOSS. All delivery dates indicated in the Sales Order are approximate unless and until confirmed in writing by Seller. Seller is not responsible for damages resulting from delays in delivery of Products caused by accidents, embargoes, trade disputes, labor disputes, strikes, insurrections, riots, governmental orders, quarantines, public health emergencies or other circumstances outside Seller’s control. Regardless of the manner of shipment, delivery occurs and title and risk of loss or damage pass to Buyer, upon placement with the shipment carrier at Seller’s facility or, if delivered by an employee of Seller, at Buyer’s designated delivery location.

3. WARRANTIES.

A. Warranty for Products Manufactured By Third Parties. The Sales Order relates to materials, equipment, tools, goods, supplies, components or devices that are fabricated or manufactured by one or more third-party manufacturers (“Products”). Seller does not warrant the quality, workmanship, freedom from defects, durability, accuracy, strength, functionality, efficacy, performance or any other characteristic of Products. Seller’s sole obligation shall be limited to making any existing applicable manufacturer’s warranties available to Buyer to the extent Seller can legally do so. Buyer’s sole remedy for breach of this warranty, and subject to Seller’s sole discretion, is either repair or replacement.

B. Warranty for Services. This warranty applies to tool repair and build-to-print services performed by Seller’s employees (“Services”). Seller warrants to Buyer that Seller shall perform the Services using personnel with adequate skill, experience and qualifications and in a professional and workmanlike manner. It is normal for the performance of tools and equipment to degrade over time due to wear and tear. Seller does not warrant that any repaired tool or equipment will function to the same performance standard as the tool or equipment did when it was new. Buyer’s sole remedy for breach of this warranty, and subject to Seller’s sole discretion, is either repair or reperformance.

C. Disclaimer. All prices are based upon the exclusive limited warranties stated above and upon the following disclaimer. THE WARRANTIES LISTED ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES PERTAINING TO THE PRODUCTS AND SERVICES. ALL OTHER WARRANTIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Warranties do not extend to any losses or damages due to misuse, accident, abuse, neglect, normal wear and tear, negligence, unauthorized modification or alteration, use beyond rated capacity, unsuitable power sources or environmental conditions, improper installation, repair, handling, maintenance or application or any other cause not the fault of Seller. To the extent that Buyer or its agents have supplied specifications, information, representation of operating conditions or other data to Seller in the selection or design of a Product and the preparation of the Sales Order, and in the event that actual operating conditions or other conditions differ from those represented by Buyer, any warranties or other provisions contained herein that are affected by such conditions shall be null and void.

4. CLAIMS; COMMENCEMENT OF ACTIONS. Buyer agrees to inspect all Products within five (5) calendar days of receipt and agrees to immediately notify Seller of any defects, nonconformities or shortages. Buyer waives any right to object to defects, nonconformities or shortages after the expiration of that five (5) calendar day period. Any claim or action against Seller based upon breach of contract or any other theory, including tort, negligence, or otherwise, must be commenced within twelve (12) months from the date of delivery of the applicable Product without regard to the date of discovery.

5. CANCELLATION/CHANGES. Buyer may cancel a Sales Order only upon reasonable advance written notice and upon payment to Seller of Seller’s cancellation charges which include, among other things, all costs and expenses incurred, and, to cover commitments made, by the Seller and a reasonable profit thereon. Seller’s determination of cancellation charges shall be

conclusive. Buyer may request changes to a Sales Order. If Seller agrees to a request by Buyer to change a Sales Order, then Seller may revise the price, fees and dates of delivery. Notwithstanding, Buyer may not cancel any special order or non-stock items once Seller has placed the Sales Order for such items.

6. PAYMENT. Buyer agrees to the payment terms indicated in the *Payment Terms* section of the Sales Order. Late payment fees will be charged as follows: one percent (1%) per month or part thereof will be charged for any payment that is more than 30 days late. Payments should be made to: **Colony Hardware Corporation, 269 South Lambert Road, Orange, CT 06477**. Seller's prices do not include any sales, use, or other taxes or duties unless specifically stated on the Sales Order. Seller's prices do not include shipping, freight or delivery charges unless specifically stated on the Sales Order. Seller reserves the right to negotiate escalation fees as warranted.

7. RETURNS. Products may not be returned without Seller's prior authorization. A restocking charge, after inspection and in the discretion of Seller, shall be made upon all Products returned for credit. Products returned for credit must be returned within five (5) business days after receipt, accompanied by Seller's Sales Order number and date of purchase and be unopened in the original packaging. Custom, made-to-order or special order Products, including nonstandard components are not returnable.

8. PRODUCT SELECTION. Buyer is responsible for making the final selection of all Products and assuring that all performance, endurance, maintenance, safety and warning requirements are met.

9. BUYER'S OBLIGATION; RIGHTS OF SELLER. To secure payment of all sums due or otherwise, Seller retains a security interest in all Products delivered to Buyer and these Terms & Conditions are deemed to be a Security Agreement under the Uniform Commercial Code. Buyer authorizes Seller as its attorney to execute and file on Buyer's behalf all documents Seller deems necessary to perfect its security interest, including, without limitation, a UCC Financing Statement.

10. FORCE MAJEURE. Seller does not assume the risk and is not liable for delay or failure to perform any of Seller's obligations by reason of events or circumstances beyond its reasonable control ("Events of Force Majeure"). Events of Force Majeure shall include, without limitation: accidents; strikes; labor disputes; riots; insurrections; cyber-attacks; pandemics; public health emergencies; acts of God; storms; floods; acts of any government or government agency; delays or failures in delivery from carriers or suppliers; global or regional supply chain disruptions; and shortages of raw materials.

11. WAIVER AND SEVERABILITY. Failure to enforce any provision of these Terms & Conditions will not invalidate that provision nor will any such failure prejudice Seller's right to enforce that provision in the future. Invalidation of any provision of these Terms & Conditions by legislation or other rule of law shall not invalidate any other provision herein. The remaining provisions of these Terms & Conditions will remain in full force and effect.

12. GOVERNING LAW. The Sales Order and these Terms & Conditions shall be governed by, construed and interpreted in accordance with the laws of the State of Connecticut. As a part of the consideration for the Sales Order, and regardless of any present or future domicile of Seller, Seller and Buyer hereby consent and agree that the Superior Court of the State of Connecticut or, at Seller's election, the United States District Court for the District Connecticut, shall have exclusive jurisdiction to hear and determine any claims or disputes between Seller and Buyer relating to the Sales Order and these Terms & Conditions. Buyer and Seller expressly submit and consent in advance to such jurisdiction and Buyer and Seller waive any objection which they may have based upon lack of personal jurisdiction, improper venue of forum non conveniens. Buyer and Seller consent to the granting of such legal or equitable relief as is deemed appropriate by such court. In any action by Seller to enforce its rights under the Sales Order and these Terms and Conditions, the non-prevailing party shall pay the prevailing party's costs and expenses (including reasonable attorneys' fees and collection costs).

13. INDEMNITY. Buyer shall indemnify, defend, and hold Seller harmless from any losses, claims, liabilities, damages, lawsuits, judgments and costs (including attorneys' fees and defense costs), whether for personal injury, property damage or any other claim, brought by or incurred by Buyer, Buyer's employees, or any other person, arising out of: (i) improper selection, application, design, or other misuse of Products purchased by Buyer from Seller; (ii) any act or omission, negligent or otherwise, of Buyer's employees, agents or contractors; or (iii) Buyer's failure to comply with these Terms & Conditions. Seller shall not have any duty or obligation to indemnify Buyer under any circumstance.

14. LIMITATION OF LIABILITY. SELLER SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS, DIMINUTION IN VALUE OR REPUTATION, OR LOST OPPORTUNITY), SPECIAL, PUNITIVE OR LIQUIDATED DAMAGES, DIRECTLY OR INDIRECTLY, ARISING OR RESULTING FROM THE SALE, HANDLING OR USE OF THE PRODUCTS SOLD, WHETHER ARISING FROM CONTRACT, EQUITY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR ANY OTHER THEORY OF LIABILITY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR IF THEY ARE FORESEEABLE. SELLER SHALL NOT BE RESPONSIBLE FOR CLAIMS BY ANY THIRD PARTY, SUCH AS, BY WAY OF EXAMPLE AND NOT OF LIMITATION: (A) A PROPERTY OWNER FOR WHOM BUYER PERFORMED CONSTRUCTION WORK; OR (B) A WORKER WHO SUFFERED AN INJURY WHILE USING A PRODUCT. SELLER'S LIABILITY FOR BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE, IS EXPRESSLY LIMITED, AT SELLER'S OPTION, TO: (I) REPLACEMENT AT THE AGREED POINT OF DELIVERY OF ANY PRODUCTS FOUND TO BE DEFECTIVE OR NOT TO CONFORM TO THE SPECIFICATIONS INDICATED ON THE ORDER FORM; (II) REPAIR OF SUCH PRODUCTS; OR (III) REFUND OR CREDITING TO BUYER OF THE PRICE OF SUCH PRODUCTS.

15. DISPUTE RESOLUTION. If a dispute arises out of or relates to the Sales Order or these Terms & Conditions or their breach **other than Buyer's failure to pay for Products**, the parties shall attempt to resolve the dispute through the dispute resolution procedures set forth herein (the "Resolution Procedures"). If any dispute arises under the Sales Order or these Terms & Conditions, either party may notify the other in writing of the existence of such dispute and the commencement of the Resolution Procedures. Within twenty (20) business days after receipt of the commencement notice the parties shall conduct a hearing at a mutually agreed upon location and time. The hearing shall be conducted before a hearing panel of one senior executive of from each party (the "Hearing Executives"). During the hearing each party shall present its position, and each party shall be entitled to a rebuttal. The Hearing Executives will reach agreement on the order of presentations and other procedural issues regarding the hearing. At the conclusion of the hearing, the Hearing Executives shall meet to attempt to resolve the dispute. The Resolution Procedures shall be deemed terminated if the parties have not executed a written settlement of the dispute on or before the tenth (10th) business day following the conclusion of the hearing. Unless a written settlement is executed, any promises or agreements made by the parties at the hearing shall not be binding on the parties. All discussions, offers, promises, statements, or conduct made in the course of the Resolution Procedures are privileged, confidential, inadmissible, and not discoverable for any purpose. If the Hearing Executives are unable to resolve the dispute within forty-five (45) days of the date of the commencement notice, either party may institute litigation.

16. MISCELLANEOUS. Unless otherwise agreed in writing the Sales Order and these Terms & Conditions contain the entire agreement between the Buyer and Seller and constitute the final, complete and exclusive expression of the terms of sale. All prior or contemporaneous written or oral agreements or negotiations are herein merged. The Sales Order and these Terms & Conditions may only be amended, modified or supplemented by an agreement in writing signed by each party. If any term or provision of these Terms & Conditions is determined to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability shall not affect any other provision of these Terms & Conditions.

17. SAFETY DATA SHEETS ("SDS"). When required by applicable laws, regulations or industry norms, SDS for Products sold by Seller are prepared by the manufacturers and available online at the manufacturer's website or at www.colonyhardware.com/sds.