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## PRODUCT ORDER TERMS & CONDITIONS

CLIENT'S SUBMISSION OF AN ORDERING DOCUMENT OR CUSTOMER'S PAYMENT OF APPLICABLE FEES OR CHARGES TO ABETECH SIGNIFIES CLIENT'S ACCEPTANCE OF AND AGREEMENT TO THESE PRODUCT ORDER TERMS & CONDITIONS.

These Product Order Terms & Conditions and any Ordering Document constitute a binding legal agreement between AbeTech and Client which applies to any and all Products specified in the Ordering Document.

These Product Order Terms & Conditions provide the fundamental basis for AbeTech's agreement to provide the Products to Client. The Ordering Document is not complete without these Product Order Terms & Conditions. AbeTech would not have accepted the Ordering Document without these Product Order Terms & Conditions, and would not have entered into any agreement to provide the Products to Client without these Product Order Terms & Conditions.

### 1. Definitions

"AbeTech" means Abraham Technical Services, Inc., d/b/a AbeTech, a Minnesota corporation.

"Client" means the entity identified on the Ordering Document as the purchaser of the Products.

"Custom Products" means Products identified in the Ordering Document as being custom Products.

"Ordering Document" means any purchase order, sales order, volume purchase agreement, blanket order agreement, acknowledgment, confirmation, or similar document generated by AbeTech. "Ordering Document" does not include any document generated by Client.

"Products" means the items identified in the Ordering Document being sold by AbeTech and purchased by Client.

### 2. Use

Client agrees to use the Products in a lawful manner.

### 3. Payment

Unless otherwise specified in the Ordering Document, the terms of payment for purchases of Products are net thirty (30) days.

A service charge of 1.5% per month or highest legal rate will be charged on all past due accounts.

### 4. Financing and Security Interests

If necessary, AbeTech agrees to extend credit to Client, or to otherwise arrange for the extension of credit to Client, for the purchase of the Products.

Client will at any time or times hereafter execute such financing statements or other instruments and perform such acts as AbeTech may request to establish and maintain a valid security interest in the Products.

Client shall not sell, lease, mortgage, conceal or otherwise transfer the Products without the written consent of AbeTech at any time during which any part of the purchase price of the Products remains due and owing to AbeTech and shall: (a) disclose to AbeTech at its request the location of the Products and permit AbeTech inspect the Products at all reasonable times; (b) keep the Products in good repair; (c) keep the Products insured for its full value against loss by fire or other hazard; (d) permit all payments of loss under such insurance on the Products to be applied upon any indebtedness of Client to AbeTech; and for such purpose Client does hereby assign all such payments to AbeTech; (e) pay promptly when due all taxes on, and all bills for repairing, servicing, improving, insuring or storing the Products; (f) prevent and avoid any attachment, garnishment of or seizure of the Products by others and any adjudication/bankruptcy or appointment of a receiver or other liquidator of Client.

Legal title to the Products shall remain in AbeTech until all sums payable under the Ordering Document or other agreements are fully paid in cash, whereupon said legal title shall pass to Client. No obligation of Client or any co-signer or guarantor shall be released by any transfer or extension of the time of payment of this contract or by any transfer, loss of or damage to the Products.

## **5. Shipping and Risk of Loss**

Shipments of Products from AbeTech to Client shall be FOB Origin/shipping point. All claims for mis-shipments must be made within five (5) days of Client's receipt of the shipped items.

## **6. Custom Products**

Returns: All sales of Custom Products are final. Custom Products may not be returned to AbeTech.

Exact Shipment and Over/Under Runs:

Custom Products are subject to a 10% over or under run in full length rolls, and Client will be invoiced for the actual quantity shipped.

Exact-quantity shipment is available upon request. Requests for exact-quantity shipments for quantities over 12 that are less than or equal to \$10,000 are subject to a 5% or \$50 surcharge, whichever is greater. Requests for exact-quantity shipments for quantities over 12 that are greater than \$10,000 are subject to a 3% surcharge. Surcharges for exact-quantity shipments are only applied to Custom Product fees; charges for dies, plates, changeovers, and expediting are not included in calculating the amount of the surcharge.

Artwork and PMS Numbers:

Complete computer ready artwork showing the design/layout including PMS numbers must be provided with or prior to submission of the Ordering Document.

Artwork must be submitted as a Vector file (accepted file types are .pdf, .ai, .eps, .wpg, .wmf, .dxf, .dwg and .cdr).

Non-Vector files that are provided are subject to a minimum \$50 an hour artwork charge; average 3 hours.

AbeTech reserves the right to modify any quotation upon receipt of artwork.

AbeTech will create a drawing of Client's custom label/tag that will be faxed or emailed to Client within three days after the receipt of the Ordering Document and all necessary artwork, dimensions, and PMS color information. The three days identified in the preceding sentence are not included in the quoted lead time.

The drawing must be signed and returned to Client's Client Care Specialist before the Ordering Document will be processed.

Lead Time:

Lead time begins at the start of the first business day after AbeTech receives Client's signed drawing.

## **7. Blanket Orders**

Blanket orders will be accepted and priced for shipment no later than twelve (12) months after the date of the Ordering Document.

The maximum number of releases for a blanket order is twelve (12).

Blanket Type must be provided when order is placed. Blanket Call for Release or Scheduled with release dates.

The quantity ordered by Client represents a firm commitment by Client to purchase the total quantity.

If an order is cancelled or the quantity is reduced, Client is responsible for stock AbeTech has at the time and is subject to any applicable change order requirements and cancellation charges. In addition, pricing will be re-quoted based on actual volume and re-billed at the new price from the beginning of the blanket forward.

Blanket order inventory is subject to a 5% monthly facilitation fee of remaining product after contract expiration.

AbeTech has quoted pricing based on the number of releases specified in Client's quotation request. Pricing is only valid for the number of releases specified in Client's quotation request. If Client requests a different number of releases than originally specified in Client's quotation request, pricing will be requoted.

Prices may be adjusted at AbeTech's option to reflect changes in base material costs or as market conditions dictate. Client will be notified at least thirty (30) days before a price increase will take effect.

## **8. Default**

Client shall be in default under this agreement upon the happening of any of the following events: (a) nonpayment, when due of any amount payable on any of Client's payment obligations with respect to the Products, or failure to observe or perform any term hereof; (b) if any covenant, warranty or representation herein shall prove to be untrue in any material respect; (c) Client becomes insolvent or unable to pay debts as they mature or makes an assignment for the benefit of creditors, or any proceeding is instituted by or against

Client alleging that such Client is insolvent or unable to pay debts as they mature; (d) entry of any judgment against Client; (e) dissolution, merger or consolidation, or transfer of a substantial part of the capital stock or property of a Client which is a corporation or a partnership; or (f) if AbeTech deems itself insecure for any reason with respect to its ability to collect from Client any indebtedness with respect to the Products, or to protect the Products at any time during which Client is indebted to AbeTech with respect to said Products.

In any instance where AbeTech and Client have entered into more than one Ordering Document, Client's default under any one such Ordering Document shall constitute a default under all such Ordering Documents and AbeTech shall be entitled to enforce appropriate remedies for Client's default under each such Ordering Document.

**9. AbeTech's Rights upon Default**

In the event of a default by Client, AbeTech shall have the right, at its option and without demand or notice, to declare all or any part of the Client's payment obligations with respect to the Products immediately due and payable. In addition to the rights and remedies granted hereby, AbeTech may also: (a) exercise all of the rights and the remedies of a secured party under the Uniform Commercial Code or any other applicable law; (b) take possession of the Products and for that purpose enter the premises where the Products may be, thereby terminating all of Client's rights in the Products; and (c) effect all necessary insurance, pay the premiums thereon, and pay any taxes, liens and encumbrances on the Products, and any such payments made by AbeTech with interest thereon at the highest legal rate allowed by law shall be repaid to AbeTech by the Client. In the event of the Client's default, Client agrees to deliver and make the Products available to AbeTech at a place or places acceptable to AbeTech. Client further agrees to pay all costs and expenses of AbeTech, including attorney's fees, incurred in the collection of any indebtedness of Client with respect to the Products; or incurred in the repossession, transport, storage or repair to the Products; or incurred in the enforcement of any of AbeTech's rights hereunder. AbeTech shall not be liable to Client for any damages or losses sustained by Client as a result of the enforcement by AbeTech of any of its rights or remedies hereunder, and Client hereby waives all defenses to AbeTech, enforcement of its rights hereunder.

**10. Notice of intended disposition**

If any notification of intended disposition of any of the Products is required by law, such notification shall be deemed reasonably and properly given if mailed at least ten (10) days before such disposition, postage, prepaid, addressed to Client at its last known address.

**11. Warranties; Limitation of Liability**

Any warranties made by the manufacturer of any of the Products that AbeTech is permitted to convey to Client shall be enforceable against the manufacturer only. Except as expressly set forth in the Ordering Document, AbeTech makes no warranties, express or implied, regarding the Products. EXCEPT AS PROVIDED IN THE PRECEDING SENTENCE, ABETECH DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

ABETECH'S MAXIMUM LIABILITY TO CLIENT RELATED TO THE ORDERING DOCUMENT SHALL NOT EXCEED THE AMOUNT PAID TO ABETECH FOR THE PRODUCTS IDENTIFIED IN SUCH ORDERING DOCUMENT. IN NO EVENT WILL ABETECH BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM LOSS OF DATA OR USE, LOST PROFITS AND CLAIMS, ACTIONS OR DEMANDS AGAINST CLIENT BY ANY THIRD PARTY, EVEN IF ABETECH HAS BEEN ADVISED OF THE POSSIBILITY THAT SUCH DAMAGES MAY BE INCURRED.

**12. Waiver**

Waiver of any default hereunder by AbeTech shall not constitute a waiver of any other default or of a same default on a later occasion. No delay or failure by AbeTech to exercise any right or remedy shall be a waiver if such right or remedy and no single or partial exercise by AbeTech of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy at any other time.

**13. Governing Law; Severability; Jurisdiction; Venue**

This agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the State of Minnesota without reference to the conflict-of-laws doctrine of any jurisdiction. If any part of this contract shall be adjudged invalid, the remainder shall not thereby be invalidated. All disputes arising from or related to this agreement, or the breach thereof, shall be governed by the laws of the State of Minnesota without reference to the conflict-of-laws doctrine of any jurisdiction. All disputes arising from or related to this agreement, or the breach thereof, shall be solely and exclusively venued in the federal or state courts in and for Hennepin County, Minnesota. The parties agree to submit to the jurisdiction of the courts in and for Hennepin County, Minnesota.

**14. Joint and Several Liability of Client**

If more than one party signs or otherwise agrees to the Ordering Document, the term "Client" shall mean all parties and each of them and all such parties shall be jointly and severally obligated hereunder.

**15. Successors and Assigns**

All rights of AbeTech shall inure to the benefits of its successors and assigns, and all obligations of Client shall bind Clients heirs, executors, administrators, successors and assigns.

**16. Exclusivity of Terms and Conditions**

PROVISIONS IN ANY CLIENT-RELATED WEBSITE, DOCUMENT, TRANSMITTAL OR COMMUNICATION THAT CONFLICT WITH, ADD TO, OR OTHERWISE MODIFY THESE TERMS AND CONDITIONS ARE HEREBY REJECTED BY ABETECH AND OF NO LEGAL EFFECT, REGARDLESS OF THE TIME OF TRANSMITTAL.