

**TERMS AND CONDITIONS OF SALE
FOREMOST GRAPHICS**

1. **FORMATION OF CONTRACT.** The terms set forth in this form are the sole terms for the sale of goods and services (collectively “Goods”) by Foremost Graphics (“Seller”), unless otherwise specifically provided for by Seller in any proposal or quotation, or on the face of Seller’s invoice, and shall apply to the exclusion of any inconsistent or additional terms contained in Customer’s order or acknowledgment or otherwise proposed by Customer. Customer’s acceptance of these terms shall be conclusively presumed by Customer’s signature on this form, by Customer’s submission of a purchase order in response to this document, or by Customer’s acceptance of delivery of, or payment for, the goods and services. Any contract made for the sale of goods or services by Seller is expressly conditional on Customer’s assent to the terms stated in this document. Seller objects to any additional or inconsistent terms proposed by Customer.

2. **CANCELLATION:** An order may not be cancelled or delayed by Customer except with prior written consent of an authorized agent of Seller, which consent may be conditioned upon payment of an amount determined by Seller in its sole discretion to offset costs, lost profits, or other consequence incurred by Seller resulting from such cancellation or delay.

3. **CONFIDENTIALITY AND OWNERSHIP OF INTELLECTUAL PROPERTY:** All proofs, materials, artwork, negatives, plates, designs, plans and drawings, software programs, equipment, machinery, and all other materials used by Seller to provide Goods, except if already owned by and provided by Customer to Seller, shall be and remain the exclusive property of Seller. Customer obtains no right in or to such property nor does it have a license to use any such property. Customer shall not make any copies of such materials unless prior written permission is obtained from Seller. Customer agrees not to permit any third party to have access to Seller’s property without the prior written consent of Seller. Seller shall have the exclusive right to copyright, trademark, patent, or otherwise protect its property rights in such materials and may use these kinds of materials in any way it deems fit.

4. **WARRANTY:** Seller provides only such warranties as are included in any quotation or proposal given by Seller or otherwise provided to Customer in writing. Seller does not warrant that the Goods are fit, legally or otherwise for any purpose or use intended by Customer. The sole and exclusive obligation of Seller is limited, at Seller’s sole discretion, to the replacement or reworking of the defective Goods or the return of that portion of the purchase price applicable to the defective Goods. Seller is not responsible for defects caused by errors or omissions resulting from the inaccuracy or defect in any customer supplied data, or for improper input and output data controls and procedures used by Customer. **OTHER THAN AS PROVIDED HEREIN, SELLER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

5. **PRICE:** Customer must pay the purchase price quoted by Seller or otherwise provided in Seller’s standard pricing. Any prices quoted or provided in an invoice cover solely the Goods described therein and do not cover rework or reruns due to any Customer error or other error that is not wholly the fault of Seller. If no price is expressly communicated, the price will be Seller’s standard price in effect at the date of shipment. If any Goods are to be shipped more than sixty (60) days from the date of an order or quotation, Seller may change the price applicable to such Goods by notifying the Customer not less than thirty (30) days prior to shipment.

6. TAXES: If Seller reasonably believes it is required by the law of any jurisdiction to collect any taxes, duties, fees, levies, or charges (“Taxes”) relating to an order, those Taxes will be in addition to the price. If Customer is either exempt from collection of such Taxes or entitled to a reduced rate of taxation pursuant to a tax treaty or other applicable law, and provides Seller with adequate documentation of such exemption from or reduced rate of taxation, Seller will be entitled to collect only such Taxes from which Customer is not exempt. Customer must remit to Seller all Taxes reasonably requested by Seller. In case of doubt by Seller as to Seller’s liability for any such tax, Customer shall allow Seller, at Seller’s expense, to assume control of any litigation or proceeding relating to the determination and settlement of such tax. Seller shall, upon final settlement of such litigation and proceeding, reimburse Customer for any tax owing including in the amount to be reimbursed, any interest charges and penalties accruing thereon.

7. PAYMENT TERMS: All invoices are due upon receipt unless otherwise provided on the face of the invoice.

8. CORRECTING ERRORS: Seller reserves the right to correct any inadvertent errors made in specifications and prices quoted.

9. FORCE MAJEURE: Neither party shall be liable for a delay in performance of its obligations and responsibilities under an order due to causes beyond its control, and without its fault or negligence, such as but not limited to war, embargo, national emergency, insurrection or riot, acts of the public enemy, fire, flood or other natural disaster, provided that said party has taken reasonable measures to notify the other promptly in writing, of delay (but in any event, within seventy-two (72) hours of the force majeure event).

10. INDEMNITY: Customer shall, at Customer’s sole cost and expense, release, defend, indemnify and hold Seller, its affiliates, directors, officers, agents, employees, and shareholders harmless from and against all claims, demands, disputes, complaints, causes of action, suits, losses and damages (including attorneys’ fees) of any kind to the extent they in any way relate to or arise, in whole or in part, due to (a) the acts or omissions of Customer in the performance of an order or any breach or default hereunder or (b) a claim based on Customer’s use of the Goods provided in connection with an order, or (c) a claim based on specifications or designs provided to Seller by Customer, including, but not limited to, claims based on aspects of such specifications or designs infringing a patent, copyright, trademark, trade secret or other intellectual or proprietary right of a third party.

11. LIMITATION OF LIABILITY: **IN NO EVENT WILL SELLER BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, IN CONTRACT, TORT OR OTHERWISE, FOR ANY LOSS OF PROFITS OR BUSINESS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, ARISING FROM OR AS A RESULT OF THESE CONTRACT TERMS, ANY ORDER OR ANY AGREEMENT BETWEEN THE PARTIES RELATING TO THE GOODS, SERVICES OR DELIVERABLES CUSTOMER PROVIDES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER’S SOLE AND EXCLUSIVE OBLIGATION FOR ANY BREACH OF WARRANTY OR OTHER TERM OR CONDITION OF AN ORDER WILL BE LIMITED TO THE AMOUNT OF PURCHASE PRICE PAID BY THE CUSTOMER IN RELATION TO SUCH ORDER OR PARTS OF AN ORDER THAT HAVE CAUSED CUSTOMER TO SUFFER DAMAGES.**

12. PACKAGING: The cost of normal packaging for Goods for domestic shipment is included in the total price, the method of packaging being determined solely by Seller. If Customer shall specify any special packaging or handling or if the Goods are to be exported, the additional cost

shall be added to the total price, unless it is specifically stated in a quote or other signed writing by Seller to the contrary.

13. SHIPMENT; RISK OF LOSS: Unless otherwise specified in a quotation or other writing signed by Seller, shipments are F.O.B. point of shipment. Shipping dates are approximate and Seller does not guarantee the date of shipment. Title and risk of loss passes to the Customer as soon as the Goods have been delivered to the carrier for shipment, or when the Goods are ready for delivery if delivery has been delayed by Customer. Passage of title and/or risk of loss is not affected by delivery terms, shipping instructions, or storage on Customer's behalf in Seller warehouse facilities. Seller has no special duty to the Customer to safeguard or otherwise secure Goods in manufacture, storage, or shipping other than its typical procedures.

14. QUANTITIES: The quantities of any Goods to be delivered may exceed or be less than the specified quantities by up to 10 percent thereof; provided, however, that quantity variations may exceed 10 percent for Goods manufactured to the Customer's specifications. Unless otherwise provided in a writing signed by Seller, orders are contemplated to provide for one shipment to one destination and Seller may add to the total price quoted additional costs incurred to fulfill any other shipping arrangement.

15. INSPECTION AND ACCEPTANCE: Customer will fully inspect all Goods delivered and within fifteen (15) days of delivery, will provide Seller a detailed written explanation that is sufficient for Seller to identify any defects it claims in the Goods. If Customer fails to timely provide such detailed written notice or uses the Goods such activity (or inactivity) will constitute irrevocable acceptance of the Goods and the waiver of any and all claims, including, but not limited to, warranty claims.

16. SECURITY INTEREST: Until Seller has received full payment of the purchase price for any Goods, Seller retains a security interest in the Goods and is authorized by Customer, at the sole option of Seller, and without further agreement or signature by Customer, to file evidence of such security interest pursuant to the uniform Commercial Code and to provide notice to Customer's other secured creditors of such security interest. As long as Seller has a security interest, Customer will keep the Goods adequately insured, in good condition, and free from any other liens or encumbrances.

17. ASSURANCE OF PERFORMANCE: If, in Seller's judgment the financial condition of Customer at any time does not justify continuing production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance and, in the event of the bankruptcy or insolvency of Customer, or in the event any proceeding is brought by or against Customer under the bankruptcy or insolvency laws, Seller may be entitled to cancel any order then outstanding, without any liability and receive reimbursement for cancellation charges. Further, Seller may modify or suspend credit terms at any time in its sole discretion. Additionally, if Seller becomes reasonably insecure as to Customer's ability or willingness to perform the terms of any order (including but not limited to timely payment of purchase price) Seller may modify the terms of an order in one or more ways including, without limitation: requiring cash payment or additional security from Customer before shipment, accelerating the date of any payment, withholding any shipment or future shipment, or cancelling unfilled orders.

18. REMEDIES: Without limitation, Seller is entitled to charge the lesser of one and one-half percent (1.5%) per month or the maximum applicable legal interest rate on any balance of purchase price not paid within payment terms and to exercise all of the rights provided to Seller by the Uniform Commercial Code as applied to these Terms and Conditions. Further, Customer will pay to Seller all costs of collection, including reasonable attorneys' fees and costs in the

event that Seller retains the services of an attorney to resolve a dispute arising out of any order (including but not limited to for collection of purchase price) or otherwise out of the parties agreement as reflected in the terms and conditions contained herein. Seller's remedies shall be cumulative and shall include any remedies allowed by law. Seller's waiver of any breach shall not constitute Seller's waiver of any other breach of the same or any other provision. Seller will not be deemed to have waived any right or claim unless such waiver is in writing and signed by an authorized agent of Seller. Without limiting the foregoing, neither delayed enforcement nor acceptance of any items or payments therefor shall be deemed to be a waiver by Seller of any breach.

19. GOVERNING LAW/SUBMISSION TO JURISDICTION: This agreement shall be construed in accordance with the laws governing contracts made and to be performed in the State of Michigan, U.S.A., exclusive of the U.N. Convention on the International Sale of Goods. Seller and Customer agree that any action arising out of the sale of goods or services in accordance with this document must be brought, heard and decided in Kent County, Michigan. Customer waives any objection which Customer may have based on improper venue or forum non conveniens to the conduct of any proceeding in any such court.

20. ASSIGNMENT: Customer may not assign this contract, in whole or in part, without the prior written consent of Seller and any attempted assignment or delegation will be void. Seller reserves the right to assign or delegate its performance and will be released from obligations hereunder by such assignment.

21. SET-OFF: Seller may set off against any liability to Customer any amounts owed to Seller by Customer.

22. SEVERABILITY: All terms shall be enforced only to the maximum extent permitted by law. If any term is invalid or unenforceable, all other terms shall remain in effect.

23. ENTIRE AGREEMENT: This document contains all of the terms of the agreement between Seller and Customer with regard to its subject matter and supersedes all prior oral or written representations, agreements, and other communications between Seller and Customer. The contract evidenced by this document may be amended only by a writing signed by Customer and an officer of Customer.