

Date: 06-22-2022

1. Applicability. These Terms & Conditions shall, unless otherwise agreed by the parties as further described herein, apply to all sales by Evoagtec Corp ("Evoagtec") to Customer. These Terms & Conditions and any EVOAGTEC quote of prices and additional or specific terms, including release specifications designated by EVOAGTEC, shall constitute all of the terms of the agreement for the sale of products by EVOAGTEC to Customer (the "Agreement"), and any and all prior representations or agreements, whether written or oral, that are not specifically incorporated in this Agreement by reference shall be superseded by this Agreement. The parties expressly agree that any terms and conditions, including release specifications, that differ from those contained in this Agreement that may appear on Customer's purchase orders shall be of no force and effect and shall not be binding on EVOAGTEC unless specifically agreed to in a writing signed by an authorized representative of EVOAGTEC in its absolute and sole discretion.

2. Prices & Payments.

(a) Unless a quote from EVOAGTEC contains differing terms:

(i) Prices and payment terms shall be those in effect at the time of shipment from EVOAGTEC; (ii) all prices and discounts are subject to change by EVOAGTEC in its absolute and sole discretion without prior notice to Customer; (iii) payment in full shall be due and payable by Customer to EVOAGTEC within thirty (30) days of invoicing (net 30); (iv) all prices are F.O.B. Newton Grove, NC; (v) freight shall be prepaid by Customer, and Customer shall bear all costs, insurance premiums, freight, and other charges or expenses incurred after EVOAGTEC has placed the products in the custody of a carrier at the place of shipment to Customer, and (vi) sales, use, or duty taxes required by state, federal or local law to be collected or paid by EVOAGTEC shall be additional costs to prices quoted and shall be paid by Customer.

(b) If any payment is not received by EVOAGTEC when due, Customer agrees to pay finance charges, which shall accrue at the rate of 1.5% per month (Annual Percentage Rate of 18%) or the highest rate allowed by applicable law, whichever is higher, from the payment due date and will be added as principal to any unpaid balances. These finance charges shall continue to accrue on any unpaid balances until paid in full.

(c) If any payment from Customer is not received by EVOAGTEC within specified payment terms, EVOAGTEC may, at its option and in its absolute and sole discretion, (i) ship products on a prepayment, COD or COD-plus only basis; (ii) suspend further shipments until the entire principal balance, plus accrued interest, finance charges and other penalties, are paid in full; or (iii) terminate this Agreement.

(d) By accepting these Terms & Conditions, Customer agrees to pay all costs and expenses, including, without limitation, reasonable attorney's fees and court costs incurred by EVOAGTEC in the collection of any sum payable by Customer to EVOAGTEC or its exercise of any enforcement or collection remedies.

(e) No claim for money due or to become due to Customer will be subject to any deduction or set off by Customer for any counterclaim arising from this or any other transaction with EVOAGTEC.

3. Cancellation. EVOAGTEC reserves the right, in its absolute and sole discretion, to cancel an order at any time prior to shipment.

4. Shipment. EVOAGTEC shall use commercially reasonable efforts to ship all products ordered by Customer as soon as reasonably practicable. In the event of interruption of any such shipment due to causes beyond the reasonable control of EVOAGTEC, including without limitation, fire, labor disputes, riots, accidents, or the inability to obtain necessary materials or components, EVOAGTEC shall have the right, in its sole discretion, and upon oral or written notice to Customer, to reduce the quantity ordered or to delay or terminate such shipment. EVOAGTEC assumes no liability whatsoever in connection with the delivery of any products to Customer by a third-party.

5. Shortages: Inspections: Returns. Customer shall have ten (10) days within which to inspect the product after receipt thereof. Customer must notify EVOAGTEC at 210 Main St. Newton Grove, NC 28366, in writing within such ten (10) day period (i) of any shortage or (ii) if the product does not meet release specifications designated by EVOAGTEC. Time is of the essence. All claims for shortages or failure to meet specifications shall be waived and released by Customer after such time period. Upon timely notification and at EVOAGTEC's option, shipment will be fulfilled, or a credit will be mailed to Customer within thirty (30) days of claim receipt and successful resolution of product disposition. Customer shall be responsible for risk of loss and shipping and handling fees associated with returning and/or exchanging the products. Additional fees may apply. All returns are subject to EVOAGTEC inspection and approval.

a. **Limitation and Disclaimer of Warranties.** EVOAGTEC represents and warrants to Customer that the products delivered shall meet applicable industry standards and specifications, or if different, the specifications stated in EVOAGTEC's quote.

6. IN ALL OTHER RESPECTS, EVOAGTEC MAKES NO

REPRESENTATIONS, PROVIDES NO INDEMNITIES (INTELLECTUAL PROPERTY OR OTHERWISE), AND DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND/OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE RELATIVE TO ANY GOODS, PRODUCTS, OR SERVICES SOLD BY IT.

7. Limitation of Liability. UNDER NO CIRCUMSTANCES AND IN NO EVENT SHALL EVOAGTEC BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS INCURRED BY CUSTOMER, REGARDLESS OF WHETHER EVOAGTEC RECEIVED NOTICE OF THE POTENTIAL FOR SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, ANY LIABILITY INCURRED BY EVOAGTEC, INCLUDING OBLIGATIONS UNDER ANY INDEMNITY, SHALL BE LIMITED TO THE AMOUNT OF THE PRODUCTS ACTUALLY PURCHASED BY CUSTOMER GIVING RISE TO THE CLAIM OR LIABILITY, WHICH AMOUNT SHALL BE LIQUIDATED DAMAGES. EVOAGTEC DISCLAIMS ALL LIABILITY FOR GRATUITOUS INFORMATION OR ASSISTANCE PROVIDED BY, BUT NOT CONTRACTUALLY REQUIRED OF, EVOAGTEC. ANY ACTION AGAINST EVOAGTEC MUST BE BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE CAUSE OF ACTION ACCRUES. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, AND FURTHER WILL EXTEND TO THE BENEFIT OF EVOAGTEC EMPLOYEES, AGENTS, AND REPRESENTATIVES, AS THIRD-PARTY BENEFICIARIES.

8. Use of Product. Customer agrees to use, store and dispose of the products sold by EVOAGTEC in accordance with EVOAGTEC's directions and technical bulletins and in accordance with all applicable laws, rules, and regulations governing their specific applications. Customer assumes all of the risk for its use and disposal of the product and agrees that EVOAGTEC shall have no liability whatsoever with respect to Customer's use or disposal thereof.

9. Indemnification Against Third Party Claims. In the event that any person, not a party to this agreement, shall make a claim or file any lawsuit against EVOAGTEC, its employees, agents, representatives, or assigns, for any reason whatsoever relating to the products provided by EVOAGTEC to the Customer, Customer agrees to indemnify, defend, and hold harmless EVOAGTEC from and against any and all claims, lawsuits, liability, expense, and loss, whether such claims and lawsuits be based upon alleged recklessness, active or passive negligence, express or implied contract or warranty, contribution, or indemnification, or strict or products liability on the part of EVOAGTEC, its employees, agents, representatives, or assigns. This indemnification provision shall survive the termination or expiration of this Agreement.

10. Infringement Claims. In addition to any other indemnification herein, Customer will indemnify, defend, and hold EVOAGTEC harmless against any expense, judgment, or loss for infringement of any patents, trademarks, or other third-party property rights resulting from Customer's use of the product(s) or EVOAGTEC's compliance with Customer's specifications or instructions.

11. Proprietary Information. Customer agrees that EVOAGTEC has and claims various proprietary rights in the materials, knowledge, methodology, and composition that constitutes EVOAGTEC's products, and Customer shall not directly or indirectly cause any such proprietary rights to be violated.

12. Modification: Waiver. EVOAGTEC reserves the right to amend these Terms & Conditions at any time and from time to time in its absolute and sole discretion. No waiver or breach of any term or condition shall be construed to be a waiver of any succeeding breach.

13. Invalid Provisions: Severability. If any of the terms and provisions of this Agreement shall be declared invalid or inoperative by a court of competent jurisdiction, all of the remaining terms shall remain in full force and effect.

14. Paragraph Headings. Paragraph titles are for the convenience of the parties only and shall not be considered in construing the provisions of this Agreement.

15. Governing Law: Jurisdiction: Waiver of Jury Trial. Any and all claims, disputes, and matters arising out of or relating to this Agreement shall be governed by the laws of the State of North Carolina. Any legal action, dispute, or proceeding arising from or in connection with this Agreement shall be brought and maintained exclusively in the federal or state courts of the State of North Carolina, and Customer hereby consents to such personal jurisdiction within the State of North Carolina. All parties hereto waive the right to trial by jury in connection with any litigation arising with respect to this Agreement.