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## ALPINE SERVICES LLC'S GENERAL TERMS AND CONDITIONS OF SALE

**THE SALE OF PRODUCTS AND SERVICES BY ALPINE SERVICES, LLC ("ALPINE") ARE SUBJECT TO THESE TERMS AND CONDITIONS REGARDLESS OF OTHER OR ADDITIONAL TERMS OR CONDITIONS THAT CONFLICT WITH OR CONTRADICT THESE TERMS AND CONDITIONS IN ANY PURCHASE ORDER, DOCUMENT, OR OTHER COMMUNICATION. PREPRINTED TERMS AND CONDITIONS ON ANY CUSTOMER DOCUMENT AND/OR ALPINE'S FAILURE TO OBJECT TO CONFLICTING OR ADDITIONAL TERMS WILL NOT CHANGE OR ADD TO THE THESE TERMS AND CONDITIONS.**

Alpine's acceptance of any order is subject to these terms and conditions. Buyer's acceptance of all or any part of the goods or services ordered by Buyer and delivered by Alpine constitutes acceptance of these Terms and Conditions.

### **1. QUOTE, ORDERS, AND PRICE**

All quotes are made for customer's acceptance and any terms quoted therein are subject to change without notice after thirty (30) days from the date quoted unless specifically stated otherwise on the quote. Any product which may be available at the time of quote is subject to prior sale.

Alpine may change any quoted price at Alpine's sole discretion.

Prices quoted are for products only and do not include taxes, impositions, and any other charges, fees, shipping charges, and duties that may be imposed by any government authority unless specified.

The quote is subject to and based upon these terms and conditions. The products stated in the quote are based upon Alpine's interpretation of customer's specifications or other documents or forms accompanying buyer's request for quote. Buyer is solely responsible for that the products quoted meet buyer's engineering or design requirements or those of buyer's customer before an order is placed. There is no refund or return of any items that do not meet buyer's engineering or design requirements or those of buyer's customer and buyer did not provide that information to Alpine.

All Orders are subject to express acceptance by Alpine.

Orders for special, custom, value-added, and products specifically identified by Alpine in its sole discretion as non-standard are not able to be returned or refunded.

Once a quote is accepted by Buyer, the order may not be cancelled or rescheduled by buyer without Alpine's written consent.

### **2. FREIGHT POLICY**

Unless otherwise stated in writing by Alpine, shipping terms are EXW (as defined by INCOTERMS) from Alpine's shipping warehouse. Title to the products and risk of loss pass to buyer upon delivery of the products by Alpine to a carrier for delivery to buyer. At Alpine's sole discretion and option, freight or shipping for orders requiring export or overseas delivery may be subject to special terms and conditions and additional cost or pricing terms. If any product is damaged in transit, buyer must file claim exclusively with carrier, vessel and/or insurance company.

If any item is backordered on an order qualifying for freight prepayment, that item will be shipped prepaid unless otherwise agreed in writing by Alpine.

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Alpine will make commercially reasonable efforts to timely ship orders in compliance with any proposed delivery date(s) requested by the buyer at the time of purchase. However, Alpine cannot control how quickly a shipper will deliver items. Alpine assumes no responsibility and bears no liability for any delayed delivery or delivery that does not meet buyer's requested delivery date(s). Delayed delivery of any part of an order does not entitle buyer to cancel other orders or deliveries or to any refund, in whole or in part.

Alpine is not responsible for any delay of delivery of any product(s) to buyer caused by supply chain disruption, shipping backlogs and labor shortages, acts of God, war, labor difficulties, accidents, shortages or other inability to obtain materials, delays of carriers, delays caused by contractors or suppliers, or any other causes of any kind whatever beyond Alpine's control.

If buyer desires to submit drawings or similar materials to Alpine, shipping schedules will be calculated from the time such materials are received by Alpine and Alpine confirms it can meet buyer's specifications.

If buyer desires to conduct any type of inspection or testing of any goods or materials by buyer's representatives, such request must be specifically communicated by buyer to Alpine at the time buyer requests a quote from Alpine. Whether and when such inspection or testing will take place is at the sole discretion of Alpine. Alpine reserves the right to reject buyer's request for inspection or testing at Alpine's sole discretion. If such inspection is approved and agreed by Alpine, buyer understands and agrees the inspection or testing will impact or change prices, shipping schedules, and other aspects of buyer's purchase. Alpine will provide buyer with a revised quote.

### **3. DELIVERY**

Alpine will make commercially reasonable efforts to timely ship orders in compliance with any proposed delivery date(s) requested by the buyer at the time of purchase. However, Alpine cannot control how quickly a shipper will deliver items. Alpine assumes no responsibility and bears no liability for any delayed delivery or delivery that does not meet buyer's requested delivery date(s). Delayed delivery of any part of an order does not entitle buyer to cancel other orders or deliveries or to any refund, in whole or in part.

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### **4. CANCELLATIONS AND RETURNS**

Once a purchase order is placed by buyer and accepted by Alpine, it may be cancelled only with Alpine's written consent and on Alpine's terms. No products may be returned for credit without written permission from Alpine.

Cancellations will not be accepted for damage, shortage, or other discrepancy created or caused by buyer, the carrier or freight provider, or any other third party.

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If Alpine agrees to a return, then returned products must be in the original manufacturer's shipping cartons or equivalent, with all original paperwork and instructions, and returned in the same condition as shipped by Alpine to buyer. Buyer shall be responsible for shipping costs to Alpine for any return as well as any restocking charges at Alpine's sole discretion.

Any products returned by buyer without written agreement by Alpine will be disposed of by Alpine as it sees fit with no further communication with or liability to buyer.

All modified, fabricated, custom made, nonstandard, special-order, and non-stock products are non-cancellable and non-returnable, or may carry a restocking fee of up to 100% of the purchase order value.

## **5. SALES AND OTHER TAXES**

Alpine is required to charge sales and other required taxes on all purchased items for which buyer's tax exemption certification(s) is/are not provided to Alpine. When ordering buyer is solely responsible for indicating whether any items are tax exempt and providing to Alpine buyer's tax exemption certification(s).

## **6. TERMS OF PAYMENT**

For buyers with pre-established credit with Alpine, payment of the total invoice amount (without offset or deduction) is due 30 days from the invoice date unless specifically stated otherwise on the quote or in a written agreement signed by both parties. Pre-established credit is subject to Alpine's sole review and approval. Alpine may, at its sole discretion, rescind, revoke, or change the terms of buyer's pre-established credit at any time.

If buyer does not have pre-established credit with Alpine, payment in full must be included at purchase. All payments must be in U.S. dollars.

At Alpine's sole discretion and option, export orders may be subject to special export payment terms.

On any past due invoice, Alpine may charge interest from the payment due date to the date of payment of 2% per month. If collection efforts have to be initiated, buyer shall be responsible for payment of Alpine's reasonable attorney fees, costs of court or arbitration, and all other collection costs.

Alpine may, at its sole discretion, apply payments to any outstanding balance of buyer.

## **7. LIMITED WARRANTY**

Alpine will transfer to buyer any manufacturer warranty or other product warranties and indemnities authorized by the manufacturer. Alpine makes and offers no other warranties of any kind.

THIS LIMITED WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, WORKMANSHIP, FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL OTHER WARRANTIES, ALL OF WHICH ARE HEREBY DENIED AND WAIVED BY CUSTOMER.

## **8. FORCE MAJEURE**

Alpine shall not be liable or responsible to buyer or any third party, nor be deemed to have defaulted under or breached any agreement, for any failure or delay in fulfilling or performing any quote, purchase order, or delivery of any products or orders (in whole or in part), when and to the extent such failure or delay is caused by or results from acts beyond Alpine's reasonable control, including, without limitation: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) pandemic or widespread illness or disease; (d) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (e) laws and regulations; (f) actions, embargoes, or blockades in effect on or after the date of this Agreement;

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(g) action by any governmental authority; (h) national or regional emergency; (i) strikes, labor stoppages or slowdowns, supply chain disruptions, shipping delays, materials shortages, or other industrial disturbances; and (j) shortage of transportation services or adequate power (each a "Force Majeure Event").

#### **9. LIMITATION OF LIABILITY AND INDEMNITY**

**IN NO EVENT SHALL ALPINE, ITS OFFICERS, AGENTS, OWNERS, OR EMPLOYEES BE LIABLE UNDER ANY THEORY OF CONTRACT, EXPRESS OR IMPLIED WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR ANY PUNITIVE OR EXEMPLARY DAMAGES, ANTICIPATED OR LOST PROFITS OR LOSS OF REVENUE, PROJECT DELAY, LOSS OF OR DAMAGE TO BUSINESS RELATIONSHIP, LOSS OF OR DAMAGE TO GOODWILL, LOSS OF OR DAMAGE TO REPUTATION, OR INCIDENTAL OR CONSEQUENTIAL LOSS DAMAGE OR EXPENSE, ARISING FROM OR IN CONNECTION WITH THE QUOTE EXTENDED BY ALPINE, PRODUCTS RECEIVED BY BUYER FROM ALPINE, OR WARRANTY.**

**BUYER'S RECOVERY FROM ALPINE, IF ANY, FOR ANY ACTUAL DAMAGES SHALL NOT EXCEED THE PRICE OF THE PRODUCT AT ISSUE.**

**BUYER HEREBY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD ALPINE AND ITS OFFICERS, AGENTS, OWNERS, EMPLOYEES, CONTRACTORS, LABORERS, REPRESENTATIVES, AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, PROCEEDINGS AND LIABILITIES (COLLECTIVELY "CLAIMS") ARISING OUT OF BODILY INJURY, ILLNESS, DEATH, AND/OR THE DAMAGE, LOSS, OR DESTRUCTION OF PROPERTY, ARISING OUT OF OR RELATING TO THE PRODUCTS RECEIVED BY BUYER FROM ALPINE. THE INDEMNITIES PROVIDED FOR ABOVE SHALL APPLY WHETHER OR NOT THE CLAIM RESULTS IN WHOLE OR IN PART FROM THE SOLE, CONCURRENT, NEGLIGENCE, GROSS NEGLIGENCE, OR STRICT LIABILITY OF BUYER OR ANY THIRD PARTIES, OR ANY DEFECT IN THE PRODUCTS, GOODS, AND/OR MATERIALS, DELIVERED BY ALPINE TO BUYER OR DELIVERED BY BUYER TO ANY THIRD PARTY.**

**IN THE EVENT A THIRD PARTY MAKES A CLAIM OR INSTITUTES LEGAL ACTION AGAINST ALPINE AND/OR ITS OFFICERS, AGENTS, OWNERS, EMPLOYEES, CONTRACTORS, LABORERS, REPRESENTATIVES, AND AGENTS STEMMING FROM OR IN ANY WAY RELATED TO THE PRODUCTS OR MATERIALS PROVIDED BY ALPINE TO BUYER, THEN BUYER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS ALPINE AND/OR ITS OFFICERS, AGENTS, OWNERS, EMPLOYEES, CONTRACTORS, LABORERS, REPRESENTATIVES, AND AGENTS FOR ANY AMOUNT THAT ALPINE AND/OR ITS OFFICERS, AGENTS, OWNERS, EMPLOYEES, CONTRACTORS, LABORERS, REPRESENTATIVES, AND AGENTS MAY BE REQUIRED TO PAY SUCH THIRD PARTY, TOGETHER WITH REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES AND COSTS, INCURRED BY ALPINE IN DEFENDING SUCH CLAIM OR LEGAL ACTION.**

#### **10. ARBITRATION AGREEMENT**

Should any claim or dispute arise between us, or arise from any third party, that derives from, pertains to, or is in any way connected to any quote, purchase order, these Terms and Conditions, any products or materials provided by Alpine to buyer, shipping or delivery of any products or materials by Alpine to buyer, or any other claim or dispute between us or any third party pertaining to any transactions or attempted transactions between us, any and all such dispute(s) shall be submitted to binding arbitration. Any such arbitration shall be held in Harris County, Texas, and no legal proceedings may be instituted except to enforce the award of the arbitrator or to preserve the jurisdiction of any court with existing jurisdiction of any of the parties, whether related or not to this Agreement. Unless the parties can mutually agree on an arbitrator, each party shall select one arbitrator and the two selected arbitrators shall select a third person

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who shall arbitrate the claims and disputes. If one party fails to designate an arbitrator within fifteen days from the date on the written demand to arbitrate, the arbitrator selected by the other party shall solely arbitrate the case. The arbitrator shall notify all parties and set a date, time, and place for the arbitration hearing. The arbitrator's decision shall be based on evidence submitted and governed by the Texas Rules of Civil Procedure, Texas Rules of Evidence, and Texas statutory and case law. The decisions shall be based on a preponderance of the evidence. Notification of the details of the hearing shall be mailed to the addresses of the parties as provided to the arbitrator. The notice shall be postage prepaid and deemed received within five days from deposit with the United States Postal Service. No hearing shall be had sooner than thirty days from date of mailing of the notice. The arbitration fees shall be deemed costs of court and paid as provided in the Texas Rules of Civil Procedure. If any party employs attorneys to represent him/her/it in the arbitration, the arbitrator shall be authorized to award reasonable attorney's fees incurred in seeking to resolve the dispute(s), prosecuting the arbitration, for all arbitration proceedings and final hearing, all action necessary to reduce the arbitrator's findings to an award, all action taken to confirm the award and secure a judgment confirming the award from any Court of competent jurisdiction, and for any appeal of the award or Court's judgment. On the date of the arbitration hearing, the arbitrator shall proceed to hear the dispute or claim, whether or not all parties to the arbitration appear, and on conclusion of the facts and evidence presented make an award. The award shall be final and binding on the parties. The arbitrator shall award reasonable attorney's fees to the prevailing party in such proceeding. You hereby acknowledge that you are aware of the fact that by agreeing to arbitrate, you waive any right you have to a court or jury trial.

#### **11. GOVERNING LAW, JURISDICTION, AND VENUE.**

These terms and conditions and all related documents, including but not limited to quotes and purchase orders, and all matters arising out of or relating to any products or materials requested or provided hereunder, whether sounding in contract, tort, or statute for all purposes shall be governed by and construed in accordance with, the laws of the State of Texas, without giving effect to the conflict of laws principles that would cause laws of any jurisdiction other than those of the State of Texas to apply. Subject to the arbitration provisions herein, and without waiving same, any action or proceeding by either of the Parties shall be brought only in any state district court or federal district court located in Harris County, Texas. The Parties hereby irrevocably submit to the jurisdiction of these courts and waive the defense of inconvenient forum to the maintenance of any action or proceeding in such venue.