

## STANDARD TERMS AND CONDITIONS

**1. CONTROLLING TERMS AND CONDITIONS.** These terms and conditions of sale are applicable to all quotations and purchase orders and are the only conditions applying to the sale of Seller's products or services, except conditions relating to prices, quantities, delivery schedules, terms of payment, invoicing, shipping instructions, and the description and specifications of the products or services, together with other written conditions which may be mutually agreed upon by the parties in writing. Acceptance by Buyer of Seller's quotation is expressly and exclusively limited to the terms, conditions and limitations contained herein, with the exceptions described, which terms and conditions supersede all prior statements, proposals, negotiations, representations and agreements and shall constitute the entire agreement between Seller and Buyer with respect to the subject matter hereof. This serves as written objection to and rejection of all inconsistent or additional terms, conditions and limitations contained on any form or writing of Buyer. Buyer's acceptance of these terms and conditions shall be deemed to have occurred unless written notice of rejection is received by Seller within five (5) calendar days of receipt of this document. In any event, Buyer's acceptance of delivery of the goods sold hereunder shall manifest Buyer's assent to the terms, conditions and limitations contained herein. Seller shall not be deemed to have waived the terms and conditions contained herein if Seller fails to object to the conditions appearing in, incorporated by reference, or attached to a purchase order. If Buyer issues multiple purchase orders or makes other requests of Seller for goods or services, each such order or request shall be subject to these terms and conditions of sale regardless of Buyer's other terms of any such order or request, and regardless of the method in which the order was placed.

### 2. EXCLUSIVE WARRANTY

Goods Manufactured by Seller - Seller warrants to the original Buyer that its new goods are free from defects in materials and workmanship. Seller warrants rated performance of its new goods provided that such goods are used and maintained in accordance with the conditions set forth in the contract documents, including, but not limited to, the operating and maintenance manuals, and installation and use criteria set forth in the specifications which are a part of this Agreement, or if there are none, under good operating, maintenance and use conditions. Seller's obligation under this warranty is limited to the repair, or, at Seller's option, the replacement of any new equipment which is within twelve (12) months of delivery to the original Buyer, or the replacement of spare parts within ninety (90) days of delivery to the original Buyer, returned CPT Seller's plant of manufacture, and which, after examination, appear to Seller's satisfaction to be defective under this warranty. All costs of shipping, insurance, and risk of loss arising in connection with performance of this warranty shall be borne by Buyer.

Components Purchased by Seller - Seller shall attempt to obtain, in its subcontracts with each supplier of components not made by Seller, a provision that the subcontractor's standard warranty, if any, shall survive Seller's inspection, acceptance, and payment and shall run to Seller, its successors, assigns, and customers.

Designs - Seller warrants to the original Buyer of its designs that Seller's designs satisfy criteria and specifications set forth in the contract documents. Seller's obligation under this warranty is limited to redesign if, within twelve (12) months after delivery to the original Buyer, Buyer demonstrates to Seller's satisfaction that said design criteria and specifications were not satisfied by Seller's design. If seller manufactures the goods in accordance with Buyer's specifications, Seller shall have no liability whatsoever for defects in design or failure of performance of the goods.

Technical Assistance - Seller warrants that services shall be provided in a professional manner. Seller's obligation hereunder is limited to the providing of services by its employees or agents at the time and place, and to the extent specified in this Agreement.

THERE SHALL BE NO EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY BEYOND THE EXPRESS TERMS OF THIS AGREEMENT UNLESS EXPRESSLY AGREED TO BY SELLER IN WRITING. SELLER DOES NOT WARRANT ITS GOODS AS TO THEIR FITNESS FOR ANY SPECIAL USE OR FUNCTION OR AS TO THEIR LIFE AFTER SALE TO BUYER AND/OR TO SUBSEQUENT BUYERS OR USERS OF THE GOODS. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE WHICH EXTEND BEYOND THE FACE OF THIS AGREEMENT. SELLER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE OF ITS GOODS. Seller has no responsibility whatsoever for reimbursing Buyer or its customers, nor shall Seller be liable in damages for repair or replacement costs incurred by Buyer or its customers in connection with the goods or parts thereof without Seller first having given its written authorization for such charges and without Seller having an opportunity to perform its warranty obligations as hereinabove set forth. Seller's warranties as hereinabove set forth shall not be enlarged or affected by, and no obligation or liability shall arise or grow out of Seller's rendering of technical assistance or service in connection with Buyer's order or the goods furnished hereunder. Buyer's assertion of any rights under this warranty provision shall be in writing and shall specify with particularity the alleged defects in the goods.

**3. NO CONSEQUENTIAL DAMAGES** - As a material inducement for Seller to sell the goods to Buyer at the stated price, Buyer agrees that Seller shall in no event be liable for any loss, expense or damage for (i) loss of revenue, profits, savings, business or goodwill and (ii) exemplary, proximate, consequential or incidental damages and expenses of any type or nature, on account of any breach or default hereunder by Seller or on account of the use or nonuse of the goods. FURTHER, SELLER'S MAXIMUM TOTAL LIABILITY UNDER THIS AGREEMENT FOR DAMAGES AND EXPENSES ARISING FROM ANY DEFAULT OR DEFAULTS, BREACH OR BREACHES OF WARRANTY OR FAILURE TO DELIVER GOODS IN CONFORMANCE WITH THIS AGREEMENT (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT) SHALL NOT EXCEED BUYER'S ACTUAL DAMAGES OR THE PRICE ACTUALLY PAID BY BUYER TO SELLER FOR THE PARTICULAR GOODS INVOLVED IN THE OCCURRENCE GIVING RISE TO SUCH LIABILITY, WHICHEVER IS LESS. The period of such liability shall not extend beyond the warranty period under this Agreement. The limitations set forth in this paragraph shall not be affected by the failure of the repair remedy provided in Paragraph 2 hereof. Neither Buyer nor any affiliated company or assignee shall have the right to claim compensation or to set off against any amounts, which become payable to Seller under this Agreement or otherwise. In no event shall Buyer, its customers, successors or assigns, commence any action under this Agreement or arising out of the sale, delivery or use of the goods, and regardless of the form of the action, later than one year after the cause of action has accrued. BUYER'S REMEDIES AND MEASURE OF DAMAGES AS SET FORTH HEREIN SHALL BE EXCLUSIVE.

**4. PRICE** - Unless otherwise specified, price includes domestic packaging and crating charges, and transportation to the specified Ex Works point. Buyer will pay any additional transportation charges. Prices do not include any federal, state, or local taxes, assessments, or import duties applicable to the sale, ownership, production, transportation or use of goods sold. Any such tax or duties shall be separately itemized on Seller's invoice and paid by Buyer or, in lieu thereof, Buyer shall furnish Seller with a valid tax exemption certificate. In the event Seller is required to pay any such tax or assessments, Buyer shall reimburse Seller upon demand, plus interest on such amount at the rate of ten percent (10%) per annum from the date paid by Seller. Seller shall be under no obligation to contest the validity of any such tax or assessments or to prosecute any claims for refunds or returns. Any personal property taxes or similar taxes or assessments against the goods or on account of materials segregated for the Buyer and being held by the Seller at Buyer's request shall be paid by Buyer.

**5. SHIPMENTS AND PACKAGING** - Unless otherwise agreed in writing, all shipments shall be Ex Works Seller's plant or plants and packaging will be accomplished in accordance with Seller's standard commercial practice for domestic shipments. Seller may ship goods to the Buyer's place of business by such means as Seller shall select if adequate shipping instructions are not received from Buyer at least thirty (30) days before the shipment date. Buyer accepts all risk of loss or damage thereto, upon delivery of goods by Seller to a carrier, shipper, forwarding agent, transporter, or Government mail box or post office, whether selected by Buyer or Seller. In no event shall Seller be responsible for any goods after delivery to such shipping means.

**6. PAYMENTS** - Terms of payment, on open accounts only, are net thirty (30) days from receipt of invoice, unless otherwise agreed to in writing. Any payment due which is delayed in whole or in part, other than payments delayed as a result of non-performance by Seller, shall bear interest on the unpaid amount at the rate of one and one-half percent (1.5%) per month.

**7. CANCELLATION** - This Agreement is subject to cancellation only upon Seller's accepting such cancellation in writing, and the effective date of such cancellation shall be the date of such acceptance. Upon acceptance of cancellation, Seller shall commence efforts to terminate purchase, rental, service, and employment commitments relating to the order, and Buyer shall be liable for the costs of terminating such commitments, as well as for the payment for completed work, work in process at the time of cancellation, and lost profits. Payment of cancellation charges shall be made by Buyer upon receipt of statement of same. Cancellation charges shall not exceed the purchase price of the canceled portion of this Agreement.

**8. ACCEPTANCE** - Buyer shall inspect all goods immediately upon their delivery to the destination stated in the Agreement and shall within ten (10) days provide written notice to Seller at its principal place of business of any claim that the goods do not conform to the terms of the Agreement. Any such notice shall specify with particularity each alleged defect or nonconformity. If Buyer shall fail to give such timely notice, the goods shall be conclusively deemed to conform to the terms and specifications of this Agreement and shall constitute Buyer's irrevocable acceptance of the goods. Any use by Buyer of the goods other than solely for test purposes, or any alteration of the goods by Buyer without Seller's prior written consent, shall be conclusive and binding evidence that the goods conform to the terms and specifications of this Agreement. If Buyer accepts or is deemed to have accepted the goods as hereinabove provided, Buyer shall not be entitled to revoke acceptance thereof at a subsequent time. In the event that Buyer timely rejects the goods in accordance with the terms of this Agreement, Buyer shall hold the goods without charge to Seller for a reasonable time until Seller gives instructions to Buyer with respect to the goods. Should Buyer sell or dispose of the goods, such sale or disposition shall constitute an unequivocal acceptance of the goods, notwithstanding any prior rejection of the goods.

**9. EXCUSABLE DELAYS** - Seller shall not be in default for failure to deliver or delay in delivery arising out of causes beyond its control and without its negligence, including, but not limited to: Acts of God or the public enemy, Acts of the Government in either its sovereign or contractual capacity, fires; floods; epidemics; quarantine restrictions; strikes; shortage of materials or supplies; labor disputes; freight embargoes; delays in transit; and unusually severe weather. Any of the above excusable delays shall not terminate this Agreement, and Seller shall deliver the goods as promptly as practical thereafter. The time of the delivery set forth in the Agreement shall be extended, in the event of any change order or request for modification requested by Buyer, for such period as is reasonably necessary for Seller to comply with any such change order or request for modification. In the event of a failure to deliver timely the goods, Buyer shall not have any right to procure goods from any other source except at Buyer's sole expense; provided, however, that after payment to Seller of the contract price for any completed goods and work in process; according to the terms of this Agreement, Buyer may procure such goods or portions thereof with Seller's written approval, and at Buyer's expense, the price of which shall not exceed the amount still owing under this Agreement after required payments for such completed goods and work in process that have been subcontracted therefrom. Buyer's acceptance of late delivery goods shall constitute complete and satisfactory performance by Seller.

**10. BUYER DELAYS** - Buyer shall respond within two (2) business days to all of Seller's written requests for information and/or approvals, and Seller shall give Buyer not less than seven (7) business days advance notice of readiness to ship. No payment otherwise due to Seller shall be delayed or withheld, and no liquidated damages shall be assessed, on the basis of any delay caused by Buyer's failure to timely respond to such requests by Seller, by delays in shipment where Buyer is responsible for arranging shipment or by delays due to lack of site preparation by Buyer.

**11. SHIPPING DELAYS** - If equipment is ready to ship in accordance with the terms of sale and Buyer is not ready to take possession of same, the equipment will be "Shipped in Place" (as commonly defined by generally accepted accounting principles), and Buyer will thereupon assume all responsibility for and risk of loss or damage to the equipment. At Buyer's option, Buyer may obtain insurance coverage in case of loss or damage to the equipment Shipped in Place. Title transfer to the equipment will occur at time of invoice. Upon Shipment in Place, Seller will be entitled to receive payment due upon shipment in accordance with the Payment Terms. If Buyer requests, the equipment will be stored by Seller for up to sixty (60) days without charge, after which the storage charge will be six-tenths of one percent (.06%) of order value per day. Upon Buyer's request, Seller will arrange to deliver the equipment to a freight forwarder or warehouse for storage. All transport and storage costs shall be the responsibility of Buyer. Buyer shall bear all risk of loss or damage during transport and storage.

**12. PATENT INDEMNITY** - If the goods furnished hereunder are specified in this Agreement as being "standard commercial supplies" of Seller, Seller agrees to indemnify Buyer, its successors, assigns, agents, and users of its products against loss, damage, or liability, including cost and expenses, which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patent rights in the manufacture, use or disposition of any goods supplied hereunder, provided Buyer shall promptly notify Seller of any suit instituted against it and, to the full extent of its ability to do so, shall permit Seller (at Seller's sole discretion) to defend the same or make settlement in respect thereto. In the event the goods furnished hereunder are produced under special specifications of Buyer, no liability under this paragraph shall arise against Seller. In like manner, Buyer agrees to save Seller harmless from patent infringements resulting from Seller's compliance with designs and/or specifications not originating with Seller now or hereafter forming a part of this Agreement or with specific written instructions given by Buyer for the purpose of directing the manner in which Seller shall perform this Agreement.

**13. USE OF PRODUCTS** - Seller grants no license or right, expressly or by implication, estoppel, or otherwise, beyond the right of Buyer to use the specified goods in the form delivered by Seller. Further, Seller's products are offered for sale and are sold subject in every case to the condition that such sale does not convey any license, expressly or by implication, estoppel, or otherwise, under any patent claim with respect to which Seller could grant licenses covering any other product, or any completed equipment, or any assembly, piping spool, circuit, combination, method or process in which, or in the manufacturing or testing of which, any such Seller's products are used (notwithstanding that such Seller products may have been designed only for use in, or may only be useful in, such other patented products or such patented equipment, assembly, piping spool, circuit, combination, method or process, or in the manufacturing or testing thereof, and that Seller's products may have been purchased and sold for such use). Seller expressly reserves all its rights under such patent claims.

**14. PROPRIETARY RIGHTS** - The prints, drawings or specifications of Seller attached hereto or hereafter furnished by Seller to Buyer in connection with the obtaining or the performance of this Agreement are the property of Seller and represent a proprietary article with respect to which Seller retains all United States or foreign letter patent, trademarks or copyrights, including exclusive rights of use, manufacture and sale. Possession by Buyer of such prints, drawings or specifications does not convey any permission to manufacture, use or sell any goods shown thereon, and such information is disclosed to Buyer on a confidential basis.

**15. TERMINATION** - If Buyer fails to comply with any of the provisions hereto, or becomes the subject of a proceeding under state or federal law for relief of debtors, or makes an assignment for the benefit of creditors, Seller shall have the right to hold Buyer in default and, in addition to any other rights it may have, may cancel this Agreement in whole or in part.

**16. EFFECT OF INVALIDITY** - The invalidity in whole or in part of any provision hereto shall not affect the validity of any other provision. Should any part of this Agreement be held invalid or severed, the remaining terms of this Agreement shall continue in full force.

**17. CREDIT** - Seller reserves the right at any time to alter or suspend credit, or to change credit terms provided herein, when in its sole opinion the financial condition of the Buyer so warrants. In such case, in addition to any other remedies herein or by law provided, cash payment or satisfactory security from Buyer may be required by Seller before shipment, or Seller may, at its option, defer further shipments to Buyer until Buyer reestablishes satisfactory credit, cancel the unshipped portion of the order without any liability for failure to ship, or make shipments to Buyer on a prepayment or COD basis. Payments made by trade acceptances, notes, securities, postdated checks, etc., are unacceptable unless first approved in writing by Seller.

**18. REMEDIES** - The rights and remedies provided Seller herein shall be cumulative, and in addition to any other rights and remedies provided by law or equity. Seller's failure to insist upon strict performance of any provision of the Agreement shall not be deemed to be a waiver of Seller's rights or remedies, nor a waiver by Seller of any subsequent default by the Buyer in performance of or compliance with any of the terms of this Agreement.

19. DISPUTES - Any action to enforce or interpret the terms of this Agreement or arising out of this Agreement shall be brought and maintained exclusively in the principal trial court in the state and county in which Seller's principal offices are located or in the Federal District Court for the District in which Seller's principal offices are located. Buyer and Seller each irrevocably submits to the exclusive jurisdiction of the aforesaid courts and agrees not to commence any action, suit, or proceeding except in such courts. Buyer and Seller irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim, or otherwise, in any action or proceeding arising out of or relating to this Agreement (a) any claim that is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure lawfully to serve process, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts, and (c) to the fullest extent permitted by law, that (i) the suit, action or proceeding in any such court is in an inconvenient forum, (ii) the venue of such suit, action or proceeding is improper, or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. The laws of the state in which Seller's principal offices are located, other than the conflict of law provisions, shall govern the formation, performance and construction of this Agreement.

20. ASSIGNMENT - Buyer may not assign this Agreement, or any portion thereof without the express prior written consent of Seller. Subject always to the foregoing, this Agreement insures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors and assigns of the parties hereto, and in no event shall assignment relieve Buyer of liability for performance of the obligations imposed by this Agreement.

21. CONFORMANCE WITH LAW - Buyer assumes all responsibility for conformance of the goods with laws, rules, regulations and ordinances of any governmental or quasi-governmental agency applicable to the use or operation of the goods.

22. ENTIRE AGREEMENT - This Agreement shall constitute the entire understanding of the parties with reference to the subject matter hereof, and it is agreed that there are no understandings, promises, representations or agreements, whether oral or written, heretofore entered into between Seller and Buyer which have any force or effect. This Agreement may be amended only by a writing signed by the parties. No agent, employee, or representative of Seller has any authority to bind Seller to any affirmation, promise, representation or warranty concerning the goods, and any such affirmation, promise, representation or warranty shall be of no force or effect unless set forth in this Agreement.