



## GENERAL TERMS OF SALE

**GENERAL:** On the terms and subject to the conditions set forth herein, Seller agrees to sell to Buyer and Buyer agrees to buy from Seller, the products or services specified on the reverse side of this agreement. IF THIS AGREEMENT DIFFERS IN ANY WAY FROM BUYER'S ORDER OR IF THIS AGREEMENT IS CONSTRUED AS AN ACCEPTANCE OR CONFIRMATION ACTING AS AN ACCEPTANCE, THEN SELLER'S ACCEPTANCE IS EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO ANY ITEMS OR CONDITIONS CONTAINED HEREIN THAT ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED IN BUYER'S WRITING. FURTHER, THIS AGREEMENT SHALL BE DEEMED NOTICE OF OBJECTION TO SUCH TERMS AND CONDITIONS OF BUYER. IF THIS AGREEMENT IS CONSTRUED AS THE OFFER, ACCEPTANCE OF SAME IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN. IN ANY EVENT, BUYER'S ACCEPTANCE OF THE ORDERED PRODUCTS OR SERVICES SHALL CONSTITUTE AND MANIFEST BUYER'S ASSENT TO SELLER'S TERMS AND CONDITIONS. This agreement, together with any additional writings signed by Seller relative to the products or services covered by this agreement, shall represent the complete, agreement between Buyer and Seller and may not be modified, supplemented, or waived, except in a writing signed by an authorized representative of Seller.

**PRICES:** Prices quoted are F.O.B. point of manufacture inclusive of standard packaging for domestic shipment, valid for thirty (30) days and subject to change or withdrawal at any time prior to acceptance of Buyer's order by Seller unless otherwise agreed in writing.

**SHIPMENT:** Shipment dates offered are estimates and represent the date materials may be available F.O.B. Seller's facility rather than delivery to destination date. Shipment dates offered commence only after receipt of Buyer's Purchase Order, clarification of required technical information, resolution of engineering and/or commercial issues or receipt of customer's written acceptance of drawings when required. Any Product offered from stock is subject to prior sale.

**CANCELLATION:** No order may be canceled by the Buyer except upon written notice to Seller and upon payment to Seller of all costs incurred by it arising out of, or in connection with, the order. Seller shall have the right to cancel and order or to refuse to ship or to delay shipment in the event Buyer fails to submit payments when due or perform any other obligations of Buyer. Export of goods covered hereby is subject to U.S. Government control. In the event a validated Export License is denied by the U.S. government, Buyer's order(s) will be immediately canceled and Buyer will be liable for the order value or actual costs incurred, whichever the greater.

**RETURN OF GOODS:** No product shall be returned to Seller without written authorization and shipping instructions having been obtained from Seller. Products authorized for return are to be shipped freight prepaid to the F.O.B. manufacture point and are subject to a restocking charge.

**WARRANTY:** Seller warrants that its manufactured product will, at the F.O.B. point, be free from defects in materials and workmanship. Term of warranty is 18 months from date of shipment and/or 12 months from date of installation, whichever occurs first. Seller does not warrant that its product is suitable for Buyer's intended purpose. Any product supplied by seller which Seller does not manufacture shall be subject only to the warranty of the original manufacture to the extent Seller can enforce such warranty. Any defective or nonconforming product must be held for seller's inspection and returned at Seller's request, freight prepaid, to the original F.O.B. Point. Any repairs to, or alteration of, or work done on alleged defective product without Seller's written authorization shall void Seller's warranty. Upon Buyer's submission of a claim as provided above and substantiation thereof, Seller shall at its option (i) either repair or replace its nonconforming product or (ii) refund an equitable portion of the purchase price attributable to such non-conforming product. Seller shall not be liable for the cost of removal or installation of materials or any unauthorized warranty work, nor shall Seller be responsible for any transportation cost, unless expressly authorized in writing by Seller. Any products or materials replaced by Seller will become the property of Seller, unless otherwise agreed in writing by Seller. Repair or replacement of products or refund of an equitable portion of the purchase price shall be Seller's only obligation and the sole and exclusive remedy of Buyer in the event of a failure to conform to the foregoing warrant. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES (EXCEPT THAT OF TITLE) EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**LIMITATION OF LIABILITY:** THE LIABILITY OF SELLER UNDER THIS AGREEMENT OR WITH RESPECT TO ANY PRODUCTS SUPPLIED OR SERVICE PERFORMED PURSUANT TO THIS AGREEMENT, WHETHER IN CONTRACT, IN TORT, IN STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE PAID BY BUYER WITH RESPECT THERETO. IN NO EVENT WILL SELLER BE LIABLE IN CONTRACT, IN TORT, IN STRICT LIABILITY OR OTHERWISE FOR ANY SPECIAL INDIRECT. INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS OR REVENUES, LOSS OF USE, NON-OPERATION OR INCREASED EXPENSE OF OPERATION OF EQUIPMENT. COST OF CAPITAL, OR CLAIMS OF CUSTOMERS OF BUYER FOR FAILURE OR DELAY IN ACHIEVING ANTICIPATED PROFITS OR PRODUCTS.

**TAXES AND DUTIES:** Any sales, use or other similar taxes imposed on the sale or other transaction covered by the agreement as well as import or export duties, and customs or similar fees are not included in the price. Such taxes, duties, and fees shall be billed separately to Buyer. Buyer warrants that any products sold or resold or shipped or transshipped to any country or person will not cause Seller to be in violation of any law, guideline or regulation of the United States or any foreign government.

**PRICE AND PAYMENT:** All sales are subject to approval of Seller's credit department. If Buyer fails to make a payment when due, Seller may (i) withhold all subsequent deliveries until full payments is made and (ii) required such security as Seller deems appropriate to secure future payments. Full risk of the loss shall pass to the Buyer upon deliver to F.O.B. point; however, Seller retains title, for security purposes only, to all products until paid for in full in cash. Unless other terms are specified on the reverse side hereof, payments are due in U.S. dollars, thirty (30) days after invoice date. Amounts not paid by Buyer on or before the due date shall bear interest at the lesser rate of eighteen percent (18.0%) per annum or the maximum rate allowed by law from the due date until paid. If delivery is delayed by or at the request of Buyer, (i) the date of readiness for delivery shall be deemed date of delivery for invoice purposes and (ii) Seller may impose a storage charge.

**PATENTS:** Seller agrees to assume the defense of any suite for infringement of any United States patents brought against Buyer to the extent such charges infringement of an apparatus or product claim by Seller's product in and of itself, provided (i) said product is built entirely to Seller's design, (ii) Buyer notifies Seller in writing of the filing of such suit within ten (10) days after the service of process thereof, and (iii) Seller is given complete control of the defense of such suit, including the right to defend, settle and make changes in the product for the purposes of avoiding infringement. If in any suit covered by this provision the use of products is enjoined, Seller shall at its sole cost and expense either (i) procure for Buyer the right to continue using products, (ii) replace products with non-infringing products, (iii) modify the products to be non-infringing, or (iv) remove products and refund to Buyer the purchase price, transportation and installation costs thereof. Seller shall have no liability with respect to patent rights of countries other than the United States. The foregoing shall be Seller's sole and entire liability and Buyer's sole remedy for patent infringement by products. Buyer agrees to indemnify and hold harmless Seller from and against any alleged patent infringement resulting from Seller's compliance with designs and/or specifications furnished by Buyer or with specific written instructions given by Buyer for the purpose of directing the manner in which Seller shall perform this Agreement.

**CONTRACT PERFORMANCE, INSPECTION AND ACCEPTANCE:** All products or services shall be finally inspected and accepted by Buyer within fourteen (14) days after delivery or performance as applicable. Buyer shall make all claims (including claims for shortages), excepting only those provided for under the WARRANTY and PATENTS sections herein, in writing within said fourteen (14) day period or they are waived. There shall be no revocation of acceptance. Rejection may be only for defects substantially impairing the value of products or services and Buyer's remedy for lesser defects shall be in accordance with the WARRANTY section herein. If Buyer wrongfully rejects or revokes acceptance of items tendered under this agreement, or fails to make a payment due on or before delivery, or repudiates this agreement, Seller shall, at its option, have a right to recover as damages either the price as stated herein (upon recovery of the price the items involved shall become the property of Buyer) or the profit (including reasonable overhead) which the Seller would have made from full performance, together with reasonable costs and expenses incurred. Seller shall not be responsible for nonperformance of delay in performance occasioned by any causes beyond Seller's reasonable control, including, but not limited to, labor difficulties, delays of vendors or carriers, fires or governmental actions, material shortages or other similar or force majeure occurrences. Unless otherwise agreed by Seller in writing, orders are noncancelable. If Seller agrees to cancellation of an order they may impose a restocking charge.

**SPECIAL TOOLING AND DESIGN CHANGES:** Notwithstanding any tool, die or pattern charges or amortization in connection therewith, all special tooling and related items shall be and remain the property of Seller. Special products and parts made to special specifications may not be canceled or returned without Seller's written consent and upon terms established at Seller's discretion. Seller reserves the right to change or modify the design of any product without obligation to furnish or install such changes or modifications on products previously or subsequently sold. Seller reserves the right to discontinue the manufacture, change or modify the design specification and construction of any of its product at any time without incurring any liability to Buyer.

#### **MISCELLANEOUS:**

THIS AGREEMENT AND ALL QUESTIONS ARISING HEREUNDER OR IN CONNECTION WITH A QUOTATION OR ANY ORDER SUBMITTED IN CONNECTION HERewith SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF OKLAHOMA, WITHOUT REGARD TO THE CONFLICT OF LAWS RULES OF OKLAHOMA. Seller shall be entitled to recover its reasonable costs, including attorney's fees, incurred in enforcing and/or defending its rights under this agreement. A holding that any term or condition hereof is void or unenforceable shall not render void or unenforceable any other terms or conditions of this agreement. If any sale hereunder is other than F.O.B. Seller's plant, this agreement is based upon the freight and administrative charges in effect at the time Seller delivers this agreement to Buyer. In the event of any increase or decrease in applicable freight charges before the products are shipped, such change in freight will be for the Buyer's account. Volume discount after shipping is for Seller's account. If seller experiences any material price increases from its vendors prior to shipment, Seller may pass the actual price increase through to Buyer. Any proceeding or action by Buyer arising hereunder or relating hereto, whether based on breach of contract, tort (including negligence and strict liability) or other theories, must be commenced within two (2) years after the cause of action accrues or it shall be barred. Buyer hereby warrants and represents that Buyer has knowledge and experience in financial and business matters that enable Buyer to evaluate the merits and risk of a transaction and that Buyer is not in a significantly disparate bargaining position and, to the maximum extent legally permissible, Buyer hereby waives the provisions of the Oklahoma Deceptive Trade Practices-Consumer Protection Act and any like or successor statute.

**BINDING ARBITRATION:** Buyer and Seller shall attempt, in good faith, to resolve any dispute arising out of or relating to this agreement, or the products and/or services provided hereunder, promptly by negotiation between executives. If the matter has not been resolved within sixty (60) days of a party's request for negotiation, either party may initiate arbitration as hereinafter provided. Any dispute arising out of or related to this agreement or the products and/or services provided hereunder which has not been resolved by the negotiation procedure described above, shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Unless Buyer and Seller otherwise agree in writing, the arbitration panel shall consist of three arbitrators. The arbitrators(s) shall have no authority to award punitive or other damages not measured by the prevailing party's actual damages and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this agreement. The arbitration proceeding shall be conducted in English, in Tulsa, Oklahoma.

**SOLUTION:** BUYER SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS SELLER FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, INJURY, LIABILITY AND COST BROUGHT BY OR ON BEHALF OF ANY PERSON FOR POLLUTION OR CONTAMINATION OR THE CONTROL AND REMOVAL THEREOF, OR ANY ENVIRONMENTAL HAZARD OR CONDITION (INCLUDING ANY DAMAGE TO GROUNDWATER, AQUIFERS, SURFACE WATER, SURFACE SOIL, AND SUBSURFACE SOIL,) WHETHER THE SAME IS CAUSED OR CONTRIBUTED TO BY THE NEGLIGENCE OF, BREACH OF WARRANTY BY STRICTLY CAUSED OR CONTRIBUTED TO BY THE NEGLIGENCE OF, BREACH OF WARRANTY BY, STRICT LIABILITY OF, OR AN OBLIGATION OR INDEMNITY OF SELLER, ITS AGENTS OR EMPLOYEES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION, CANCELLATION OR EXPIRATION OF THIS AGREEMENT OR ANY ORDER ISSUED PURSUANT HERETO.