

## Terms and Conditions

(Seller)

1. **QUOTATION.** Quotation or any representation of an offer is firm for a period as specified in the quotation from the date hereof unless a different time is specifically stated. Upon Seller's timely receipt of purchase order from Buyer, or of a communication to commence performance (which shall be evidenced conclusively by a written communication from Buyer to Seller of Buyer's purchase order referencing this quotation), number referencing this quotation, a binding agreement shall exist. Each provision of this quotation is expressly incorporated by reference into and made an integral part of any contract or purchase order arising out of or resulting from this quotation and should there be a conflict between the terms and conditions of this quotation and those of Buyer's purchase order or contract form issued as a result of this quotation or any revision thereto, then the applicable terms and conditions of this quotation shall prevail unless Seller shall expressly provide for otherwise in writing.
2. **PRICES.** Prices are based upon present day costs and production to meet the stated delivery schedule; in the event any interruption is caused by Buyer for any reason whatsoever, the extra expense involved in expediting or in holding or storing materials, resetting equipment and bringing production rate up to normal will be charged to Buyer. Prices charged will be those in effect on the stated delivery date subject to adjustments as may be provided herein. Unless otherwise expressly agreed in writing by Seller, Buyer agrees to accept and pay for all goods shipped in accordance with the schedule set forth in the acknowledgement of order. Interest at 8 percent per annum chargeable beyond maturity.
3. **TAXES.** Prices are exclusive of all taxes and duties, however designated. All taxes, including without limitation taxes measured in whole or part by gross receipts, applicable to this transaction shall be borne by Buyer. If the Buyer claims exemption from any of these taxes, the buyer shall promptly furnish proof of exemption.
4. **PAYMENT TERMS.** Payment terms are to be determined and communicated. If the financial responsibility of Buyer becomes impaired or unsatisfactory in Seller's judgement, or if Buyer becomes in default to Seller under any contract, advance cash payment or satisfactory security shall be given by Buyer upon demand by Seller, and shipments may be withheld until such payment or security is received. Buyer expressly waives any right to set-off and shall make no deductions from payments due hereunder for any damages(s) or claim(s) of any type asserted by Buyer against Seller arising outside this order.
5. **DELIVERY.** Except as specified otherwise and agreed upon by Seller and Buyer, delivery shall be Ex-Works. Buyer assumes all risk of loss or damage in transit. Seller will use its best efforts to make deliveries as scheduled, but delivery dates are approximate only and are based on normal lead times and normal plant operations. Delivery promises are based on material availability at time of acceptance. Increases in material lead time will result in a corresponding schedule adjustment in Buyer's order.
6. **INSPECTION.** Within 45 days after tender of or delivery to Buyer of any order, Buyer shall inform Seller in writing if the goods are found defective, short, or beyond the Buyer's specifications in any respect. Failure to so inform Seller or use of the goods delivered hereunder shall constitute final acceptance. The responsibility of the product quality transfers to the Buyer after 45 days of receipt of goods. Seller reserves the right to ship this order subject to a plus or minus 3 percent variance in quantity.
7. **FORCE MAJEURE.** Seller shall not be responsible or liable for any loss, damage or delay caused or occasioned by acts of God, fire, strikes, civil or military authority, insurrection or riot, unavailability of materials, and/or parts and/or work force, machine breakdowns, power failures or restrictions, the requirements of any statute, order or directive of any governmental authority or, without limiting the generality of the foregoing, by any other cause which is unavoidable or beyond Seller's control.
8. **LIMITATION OF LIABILITY.** Seller's liability on any claim of any kind, including claims based on Seller's negligence, for any loss or damage arising out of, connected with, or resulting from this contract, or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any equipment covered by or furnished under this contract, shall in no case exceed the purchase price allocable to the equipment or part thereof which gives rise to the claim. SELLER SHALL NOT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY SPECIAL, SECONDARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING.
9. **CANCELLATION.** All orders accepted by Seller are considered as firm commitments and are not subject to cancellation except under terms which shall protect Seller from loss. Items completed in accordance with Buyer's order at the time of cancellation will be settled for at the contract price and terms, except as otherwise provided hereinbefore; items in process will be invoiced at contract price less our standard out-of-pocket cost required to complete manufacturing except as otherwise provided hereinbefore. No modification or alteration of any order shall be binding upon Seller unless in writing and signed by a duly authorized officer of Seller.
10. **REGULATORY INFORMATION.** Seller makes no representation that any goods sold hereunder will comply with any present or future requirements of any international, federal, state, or local acts or regulations pertaining to the use or composition of such goods. This includes, but is not limited to, safety, health, and environmental acts and regulations. All regulatory information required by Buyer must be requested to the Seller in writing when submitting an order request regardless of Buyer policies.
11. **APPLICABLE LAW.** Seller reserves any and all right and remedies provided by law. This document shall be interpreted and construed in accordance with the laws of the state of California.
12. **BUYER END USE.** Seller has no control over the end use of which or where their products may be employed, or the storage conditions of the product or the products derived from it. Therefore, Seller assumes no responsibility for the suitability, use, or placement of its products for any application or intended market.
13. **WARRANTY EXCLUSION AND DISCLAIMER.** SELLER SPECIFICALLY EXCLUDES, AND THEREBY DISCLAIMS, ANY EXPRESSION REPRESENTATION OR EXPRESS WARRANTY OF ANY KIND WITH RESPECT TO THE GOODS ORDERED HEREUNDER. ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE SHALL EXPIRE AND CEASE 45 DAYS AFTER DATE OF DELIVERY. SELLER SHALL NOT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY SPECIAL SECONDARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES HOWEVER ARISING. NOTHING IN THIS PROVISION SHALL INVALIDATE OR RESTRICT ANY RIGHT OR REMEDY OTHERWISE AVAILABLE UNDER STATE OR FEDERAL LAW.

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