

## Terms and Conditions

### 1. Acceptance

If the terms and conditions of this acknowledgement differ in any way from the terms and conditions of Buyer's order, this acknowledgement will be construed as a "counteroffer" and will not be effective as an acceptance of Buyer's terms and conditions which conflict therewith. The terms and conditions contained herein will be the complete and exclusive statement of the terms of agreement between the parties. Buyer's acceptance of the goods sold hereunder will manifest Buyer's assent to the terms and conditions hereof. No addition to or modification of any of these terms and conditions will be effective unless made in writing and signed by the Seller.

### 2. Warranty

If Buyer has not provided specifications, Seller warrants that the goods when delivered (F.O.B. place of manufacture) will meet Seller's Inspection Quality Levels for goods of the type sold in effect on the day of delivery. If Buyer has provided specifications, Seller warrants that the goods will conform to the specifications, unless Buyer has received a sample or model, in which case Seller's warranty will be satisfied if the goods conform either to the sample or model or to Buyer's specifications.

**EXCLUSION OF WARRANTIES:** THE WARRANTY STATED ABOVE IS THE ONLY WARRANTY MADE BY SELLER WITH RESPECT TO THE GOODS SOLD UNDER THIS AGREEMENT. THERE IS NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Certification by Seller by separate writing as to compliance with specifications, blueprints, part numbers, quantity, tests or otherwise will not create any other warranty by or other obligation of Seller.

**LIMITATION OF REMEDIES:** IN THE EVENT OF SELLER'S LIABILITY, WHETHER BASED ON CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, BUYER'S SOLE AND EXCLUSIVE REMEDY WILL BE LIMITED TO, AT SELLER'S OPTION, THE REPAIR OR REPLACEMENT (F.O.B. SELLER'S PLANT) BY SELLER OF ANY NONCONFORMING GOODS FOR WHICH CLAIM IS MADE BY BUYER IN ACCORDANCE WITH THESE TERMS AND CONDITIONS, OR TO THE REPAYMENT OF THE PORTION OF THE PURCHASE PRICE PAID BY THE BUYER ATTRIBUTABLE TO THE NONCONFORMING ITEM. SELLER WILL NOT BE LIABLE FOR ANY OTHER DAMAGES, EITHER DIRECT, INCIDENTAL OR CONSEQUENTIAL (AS DEFINED IN UCC SECTION 2-715) OR OTHERWISE.

### 3. Claims—Notice of Defects

Seller will give consideration to settlement of Buyer's claims, but in no event shall seller be liable on any claims unless notice of the claim is received by Seller within the following time limitations: 10 days after delivery for shortages in weight or count and on all other claims 30 days after delivery. Buyer shall have no right to reject nonconforming goods or to rescind, but Buyer's exclusive remedy shall be a claim for monetary adjustment, or at Seller's option, shipment of conforming goods and return of disputed goods to Seller. Material may be returned only upon receipt of written authorization and shipping information from Seller. Buyer shall afford Seller prompt and reasonable opportunity to inspect all material as to which any claim is made. If Seller and Buyer are unable to reach settlement of any claim relating to material covered hereby, Buyer must institute legal action against the Seller within one year after such claim arises and thereafter all such claims shall be barred notwithstanding any statutory period of limitations to the contrary.

### 4. Patent or Trademark Infringement

If the goods sold hereunder are to be prepared for manufacture according to Buyer's specifications, Buyer shall indemnify Seller against any claims or liability for patent or trademark infringement on account of such preparation or manufacture.

### 5. Force Majeure

Seller shall not be liable for any delay in delivery or for nondelivery, in whole or in part caused by the occurrence of any contingency beyond the control either of Seller or suppliers to the Seller, including but not limited to war (whether an actual declaration thereof is made or not), sabotage, insurrection, rebellion, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof, judicial action, labor dispute, fire, accident, explosion, epidemic, quarantine, restrictions, storm, flood, earthquake, or other act of God, shortage of labor, fuel, raw material or

machinery or technical failure, where Seller has exercised ordinary care in the prevention thereof. If any contingency occurs, Seller may allocate production and deliveries among Seller's customers.

### 6. Confidentiality

In the event Buyer's personnel visit Seller's plant or otherwise receives any proprietary or confidential information from Seller, said information shall be retained as confidential by Buyer and not disclosed to any third party without the written consent of Seller. Seller retains all rights in any invention, improvement, discovery or patent it conceives relating to the goods delivered under this agreement.

### 7. Credit

If, in the Seller's judgment, the financial condition of the purchaser at the time merchandise is ready for shipment does not justify the terms specified, the Seller reserves the right to change these terms or to require full or partial payment in advance. Whenever credit is extended, prompt payment in accordance with stated terms is mandatory. All invoices paid after due date will be assessed a late payment service charge up to the maximum allowed by applicable law. If goods are delivered in installments, Buyer shall pay for each installment in accordance with the terms hereof. Payment shall be made for the goods without regard to whether Buyer has made or may make any inspection of the goods.

### 8. Default in Payment

Failure to pay invoices at maturity date makes all subsequent invoices immediately due and payable irrespective of terms, and the seller may withhold all subsequent deliveries until the full account is settled. The receipt by the Seller of any part less than the full amount of this invoice shall not constitute a waiver of any rights of the Seller.

### 9. Prices

All prices quoted are subject to change, without notice, at any time prior to our acceptance of your purchase order, to prices prevailing at time of acceptance. If there is a delay in completion of shipment of said order, due to any change requested by Buyer or as a result of any delay on Buyer's part in furnishing information required for completion of the order, the price agreed upon at time of acceptance of order is subject to change. Prices are F.O.B. carrier's equipment at our factory and are exclusive of all taxes—federal, state, or local. There will be added to the quoted price any sales or other tax or duty we may be required to collect or pay upon the sale. If such amount is not included in invoice, it may be invoiced separately later.

### 10. Risk of Loss

Delivery shall occur and risk of loss shall pass to Buyer, upon delivery of the material to a carrier at the point of shipment. Transportation shall be at Buyer's sole risk and expense, and any claim for loss or damage in transit shall be against the carrier only.

Carriers are responsible for goods lost or damage in transit. In case of loss or damage to goods in transit, Buyer shall immediately notify the carrier or its agent in writing of such loss or damage and shall do all things necessary to assert and prosecute a claim against the carrier for such loss or damage and shall cooperate fully with Seller in any such claim Seller may assert against such a carrier for such loss or damage.

### 11. Delivery

The promised delivery date is the best estimate possible, based upon current and anticipated factory loads, of when the product will be shipped. Seller assumes no liability for loss, damage, or consequential damage due to delays.

### 12. Cancellation Charges

Orders accepted by the Seller and subsequently cancelled by the Buyer for reasons beyond the control of the Seller are subject to cancellation charges.

### 13. Authority of Agents

No agent, representative, or employee of Seller has the authority to make any affirmation, representation, warranty, or guarantee, or to change invoices without written approval of the home office of Seller or one of its officers.

### 14. Applicable Law

This agreement shall be governed by the laws of the Commonwealth or the State of Seller.