

TERMS AND CONDITIONS OF SALE

1. **Acceptance:** The Seller's acceptance of any order is expressly subject to Buyer's assent to each and all of the terms and conditions set forth below. Any additional or different terms and conditions submitted by Buyer shall be deemed objected to by Seller and shall be of no effect nor in any circumstances binding upon Seller unless accepted by Seller in writing. If Buyer objects to any of the terms and conditions said objections must be specifically brought the attention of Seller by Buyer by a written instrument separate from any purchase order or other printed form of Buyer. Said objections shall be deemed proposals for different terms and conditions and may be accepted only by a writing executed by an authorized representative of Seller at its offices in Watertown, New York, U.S.A.
2. **Prices:** Seller's published prices in effect at date of shipment of goods, shall apply.
3. **Taxes:** Liability for all present or future Federal, State, Municipal or other sales, property, use or excise taxes, license fees or other fees imposed by or payable to any governmental authority, including any department, agency or subdivision thereof, upon the production, sale, shipment and/or use of the equipment, material or services covered hereby shall be assumed and paid for by Buyer and Buyer shall indemnify the Seller against any such liability.
4. **Deliver:** Delivery of the equipment and material shall be made F.O.B. shipping point, and title and risk of loss of the equipment and material shall pass to Buyer at F.O.B. shipping point, unless otherwise expressly indicated in a writing signed by Seller. Unless Buyer specifies in writing the desired method of transportation (air express, motor freight, etc.), within a reasonable period of time before the date scheduled for shipment, Seller will use its judgment in selecting the carrier and route. Delivery schedules are estimated, and Seller assumes no responsibility for delays. If Buyer delays delivery of any items, Seller may invoice Buyer for said items, and hold them at Buyer's risk and expense pending instructions from Buyer.
5. **Terms of Payment:** Invoices shall be due and payable within thirty (30) days of the invoice date. Payments not made within thirty (30) days are subject to a finance charge 1-1/2% of the outstanding balance each month or part thereof until paid.
6. **Financial Responsibility of Buyer:** If at any time before shipment the financial responsibility of Buyer becomes impaired, or unsatisfactory to the Seller, cash payment or satisfactory security may be required by the Seller before shipment. Buyer will cooperate with the Seller in complying with any applicable conditional sale or security law and will furnish the Seller such other assurances, including financing statements, as the Seller may reasonably request. If Buyer shall fail to make payments in accordance with terms herein specified, Seller, in addition to its other rights and remedies, may at its option terminate shipment. In the event of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, the Seller shall be entitled to cancel any order then outstanding and shall receive reasonable and proper cancellation charges.
7. **Changes:** Buyer may, at any time, request a change in (a) the specifications, including drawings; (b) method of packing and shipment; (c) and date for performance. If such changes would result in increased costs or time to complete the performance of the contract, Seller shall submit a proposal identifying the price and schedule for which the change can be implemented. Buyer may accept said proposal at any time within the acceptance period specified therein, and the contract shall be modified accordingly.
8. **Cancellation and Returns:** Orders may not be cancelled by the Buyer without the prior written consent of the Seller. Orders within 30 days of the acknowledged shipment date shall be considered firm, and shall not be subject to cancellation, or a rescheduled shipment date by the buyer. Equipment and material may not be returned by the Buyer without the prior written consent of the Seller. Cancellations and restocking charges will be assessed to the Buyer where applicable.
9. **Warranty:** The Seller expressly warrants that equipment and material manufactured by it will be free from defects in material, workmanship and title at the date of shipment. This Warranty is exclusive and is offered in LIEU OF ALL IMPLIED OR STATUTORY WARRANTIES (INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) or any other express or implied warranties or representations. All claims under this Warranty must be made in

writing and delivered to the Seller prior to the expiration of eighteen (18) months from the date of manufacture or be barred. Upon receipt of a timely claim, the Seller shall inspect the item or items claimed to be defective, and Seller shall, at its option, modify, repair or replace, free of charge, any item or items which the Seller determines to have been defective at the time of shipment from the factory, excluding normal wear and tear. Inspection may be performed at the Seller's plant, and in such event, freight for returning items to the plant for inspection shall be paid by Buyer. Seller shall have no responsibility if such item has been improperly stored, installed, operated, maintained, modified and/or repaired by an organization other than the Seller. Adjustments for items of equipment and material not manufactured by Seller shall be made to the extent of any warranty of the manufacturer or supplier thereof. The foregoing shall be Seller's sole and exclusive liability and Buyer's sole and exclusive remedy for any breach of warranty or for any other claim based on any defect in, or non-performance of, the equipment and material, whether based on breach of contract or in tort, including negligence or strict liability.

10. Disclaimer of Damages: Notwithstanding any other provision of the contract, in no event shall the Seller or its subcontractors or suppliers be liable, whether arising under contract, tort (including negligence), strict liability or otherwise, for loss of anticipated profits, claims of Buyer's customers, cost of money, loss of use of capital or revenue, cost of substitute products, or for any special, incidental or consequential loss of damage of any nature arising at any time or from any cause whatsoever.
11. Assignment: Neither Seller nor Buyer shall have the right to assign any right or interest in any contract between Seller and Buyer unless such assignment is in connection with the transfer of all or substantially all of the assignor's business, or upon written consent of the other part.
12. Tender: In the event of failure or refusal of Buyer to accept delivery, no physical tender of the equipment and material by the Seller shall be necessary, but written notice of the Seller's readiness and willingness to deliver any quantity of the equipment or material at any time specified shall be equivalent to physical tender thereof.
13. Proprietary Data: Unless otherwise specifically agreed to in writing, signed by an authorized officer of the Seller, neither Buyer nor any representative of Buyer, nor any other person, shall be entitled to, or have control over, any engineering or production prints, drawings or technical data which the Seller, in its sole discretion, may consider to be, in whole or in part, proprietary. Any such prints, drawings, data and other information transmitted to Buyer in connection with any order are the property of Seller and are disclosed in confidence on the condition that they are not be reproduced, copied or used for any purpose detrimental to the interest of Seller.
14. Non Recurring Engineering Charges; Payment of a Non recurring engineering (NRE) charge does not entitle, the Payee or any representative of Payee, or any other person, to have ownership, or control over, any engineering or production prints, drawings or technical data which the Seller created in association with the order, unless otherwise specifically agreed to in writing, and signed by an authorized officer of the Seller. Any such prints, drawings, data and other information transmitted to Buyer in connection with any order are the property of Seller and are disclosed in confidence on the condition that they are not be reproduced, copied or used for any purpose detrimental to the interest of Seller.
15. Tooling Charges; Payment of a tooling charge does not entitle, the Payee or any representative of Payee, or any other person, to have ownership, or control over, any tooling, tooling prints, machining programs, or technical data which the Seller created in association with the order, unless otherwise specifically agreed to in writing, and signed by an authorized officer of the Seller.
16. Shipping Tolerances: Buyer agrees to accept a shipping tolerance of plus or minus ten percent (10%) on all "MADE TO ORDER" equipment and material. In the event of any over shipment within tolerance, additional items will be priced at the published price per item. In the event of any under shipment within tolerance, the shipment will be deemed as being complete and the order closed.
17. Assistance: Seller may, but shall have no obligation to furnish Buyer with recommendations, engineering and technical information and advice and other assistance. All such assistance is furnished without charge solely as an accommodation to Buyer and the Seller shall have no liability for inaccurate, incomplete or faulty recommendations, information, advice and assistance, whether or not negligent.

18. Labor Standards: The Seller represents and warrants that all equipment, material and services will be manufactured or furnished by the Seller in accordance with all applicable standards, provisions, and stipulations of the Fair Labor Standards Act of 1938, the Walsh-Healey Act, the Work Hours Act, and Section 202 of Executive Order No. 11246 as to nondiscrimination in employment, and any amendments thereto.
19. Force Majeure: The Seller shall not be liable for any expense, loss or damage resulting from delay or prevention of performance caused by fires, floods, acts of God, strikes, labor disputes, labor shortages, lack of or reasonable inability to obtain materials, fuel, supplies, or other equipment, riots, thefts, accidents, transportation delays, acts or failure to act of government or Buyer, delay in obtaining licenses or required permits, unusually severe weather, or any other cause whatsoever, whether similar or dissimilar to those enumerated above, beyond the reasonable control of the Seller. In the event of any delay arising by reason of the foregoing, the time for performance shall be extended by a period of time equal to the time lost by reason of such delay.
20. Non-Waiver: No failure of Seller to insist upon strict compliance of Buyer to any of these terms and conditions or to promptly exercise any right accruing from any default of Buyer shall impair Seller's rights in case Buyer's default continues or in case of any subsequent default by Buyer.
21. Governing Law: The rights and obligations of Seller and Buyer with respect to any contract between Seller and Buyer shall be governed by the laws of the State of New York.