

**TERMS AND CONDITIONS OF SALE**

Quotations, Purchase Orders, Acknowledgements, Packing Lists/Slips, Invoices & Credits

All quotations of Seller (“Quotations”) and purchase orders of Buyer (“Purchase Orders”) shall be subject to these terms and conditions of sale (“Terms and Conditions”). To place an order, Buyer’s account must be current and in good standing. All orders are subject to credit approval. The Standard terms are “Net 30 Days.” Any other terms must be agreed to in writing between Seller and Buyer. All Quotations shall be valid for a maximum of 30 days from date of issue, unless otherwise noted on the applicable Quotation. The related Purchase Order must be placed within such time frame, and the order must be shipped within 90 days of the Purchase Order date, unless otherwise agreed to in advance in writing by Seller. Please include the Quotation number when placing an order. If a Quotation number is not included with a Purchase Order, standard pricing will apply.

Quotation is based on information and quantities provided by Buyer. Prices are F.O.B. Seller’s shipping location. Any Freight Estimate given is not guaranteed, as shipping rates change constantly.

Acceptance of Buyer’s Purchase Order is provided under these Terms and Conditions, and these will be the only and final terms and conditions unless informed and agreed upon in writing by both parties within two business days after order placement and/or Buyer’s Purchase Order date, whichever comes first, referencing the specific Seller’s Quotation and Buyer’s Purchase Order numbers or specific Amendments noted on Seller’s Quotation. Any changes or cancellations must be communicated to Seller in writing. Seller’s written permission is required prior to the return of any merchandise, which permission may be withheld in Seller’s sole discretion. Due to the custom nature of many of our products, certain items may not be returned once shipped, nor cancelled if already in production. Manufacturer’s warranty, terms and conditions apply in all cases. No back charge for field corrections will be allowed without prior written authorization of Seller. Buyer shall pay or reimburse Seller for all attorney and collection fees associated with the collection of unpaid balances owed by Buyer to Seller. Any credit issued by Seller must be used within 180 days of credit date or the remaining credit balance is forfeited.

Standard Terms and Conditions

The Quotation has been submitted based upon specifications, drawings, or other information provided to Seller by Buyer. Buyer is responsible for the accuracy of any and all information, including information contained on Buyer’s Purchase Order. Seller’s acceptance of any offer by Buyer to purchase the products offered hereby (the “Products”) is expressly conditioned upon Buyer’s assent, acceptance, and agreement to all of these Terms and Conditions listed. Such assent, acceptance, and agreement shall be deemed to have been given when Buyer signs the Quotation, and/or issues to Seller a Purchase Order.

Furthermore, any Quotation together with these Terms and Conditions, the specifications, drawings and other information provided to Seller and the provisions of the Purchase Order that Seller accepts, if any which need to be specifically agreed upon in writing, constitute the complete agreement between Seller and Buyer (the “Contract”) and supersedes all previous communications, representations or agreements either oral or written between the parties hereto with respect to the subject matter of this Contract. Any additional or different material in nature and description, or terms in Buyer’s letters, forms, invoices, or

## TERMS AND CONDITIONS OF SALE

other documents are hereby deemed to be material alterations and notice of objection to them is hereby given. If Seller's Quotation includes a Quotation number and revision, Buyer should refer to those numbers in the Purchase Order. If Buyer provides Seller with a Purchase Order number, Seller will use that number on all packing lists and invoices.

Purchase Orders calling for delivery of the Products after 90 days from the date of such Purchase Order will be invoiced at prices current at time of shipment unless otherwise agreed in writing by Seller at the time of purchase order. Seller assumes no risk of and shall not be liable for any loss or damage arising from delay in delivery due to acts of regulations or any government, manufacturing or unforeseen contingencies, or any other cause beyond the control of Seller at Seller's plant or elsewhere. Seller shall not be liable for any loss or incidental, special or consequential damages caused by delay in furnishing the Products contemplated by this Quotation or any other performance under or pursuant to the Contract and such delay shall not be considered a default under the Contract. Seller reserves the right to invoice Buyer for any or all finished Products ready for shipment, when held at Buyer's request or because of any other reasons beyond Seller's control. Buyer may cancel its order only with the prior written consent of Seller and upon terms that will indemnify Seller from any loss, damage and expense arising from such cancellation.

### Use, Delivery and Installation

Buyer shall use the Products in a careful and proper manner. Buyer shall comply with any and all federal, state, or other applicable laws and ordinances relating to use and /or operation of equipment in connection with its use of the Products. Unless otherwise provided for in the Quotation, the Products will be shipped F.O.B. Seller's designated shipping point and risk of loss shall pass to Buyer upon delivery of the Products to a common carrier at such designated shipping point. Delivery is subject to Federal and State laws and regulations. Bills-of-lading will be enclosed with Products shipped or mailed to the "ship to" address specified in the Purchase Order. Packing lists will be enclosed with the Products being shipped. Buyer is responsible for inspection of the Products. Buyer hereby waives any claim or defense based on the quality of the Products, any other nonconformity of the Products (i.e., shortage in delivery) or errors in shipment unless Buyer notifies either Seller or the freight company, as the case may be, of such alleged nonconformity within two (2) business days of delivery and holds such Products subject to Seller's inspection. It is the sole responsibility of the Buyer to inspect and report damaged or lost merchandise to the delivering carrier at the time of delivery.

### Confidentiality

Seller understands that Buyer may have provided to Seller information necessary for Seller to submit this Quotation which Buyer considers to be proprietary or confidential, the public disclosure of which would place Buyer at a competitive disadvantage. To the extent that Buyer has marked any such information as "CONFIDENTIAL", Seller will maintain the confidentiality of such information in the same manner as Seller maintains its own confidential information.

## TERMS AND CONDITIONS OF SALE

### Disclaimer of Warranty and Limitation of Remedies

Seller warrants that the Products will be in conformity with the specifications of the Quotation and Purchase Order and will be free from all defects in material or workmanship which materially impair the performance of the Products, when used under proper and normal use, for a period of twelve (12) months from the date of the first delivery of the Products (unless otherwise specified in writing by Seller). The effects of normal wear and tear do not constitute a defect for purposes of this warranty. This warranty is provided by Seller solely to the original Buyer of the Products and applies to Products manufactured by Seller, if any, as well as any warranties provided by Seller's suppliers. The foregoing express warranties are the sole exclusive and entire warranties pertaining to the Products and are in lieu of and exclude all other warranties, whether express, implied or arising by operation of law, trade usage or course of dealing, including without limitation, any warranties of merchantability or fitness for a particular purpose. All other warranties are hereby disclaimed and excluded by Seller. No statement or recommendation made or assistance given by Seller to Buyer in connection with the use of any Products by Buyer shall constitute a waiver by Seller.

Buyer's sole and exclusive remedy for any breach of warranty and seller's liability under this warranty is expressly limited, in Seller's discretion, to replacing or repairing the products, or parts or components with respect to the products, agreed in writing by Seller to be defective within twelve (12) months after the date of first delivery of such products. Seller will not be obligated at any time, however, to make repairs or replacements resulting from catastrophe, Buyer's negligence or improper use of the Products, as deemed by Seller, or any causes external to the Products (such as, but not limited to, power failures or surges.) Notwithstanding any other provision of the Contract or applicable law, Seller's maximum liability arising out of or relating to the Contract shall not exceed the value of the defective Products, parts or components such value to be determined on the date that such Products, parts or components are agreed in writing by Seller to be defective. Any and all warranty claims of Buyer must be made in writing within 30 days of the alleged defect, or they shall be deemed waived. Buyer shall pay all costs incurred in returning to Seller any Products agreed in writing by Seller to be defective. In no event shall Seller be subject to any other or future liability, including special, incidental, or consequential damage, even if Seller shall have been advised of the possibility of such potential loss or damage to Buyer.

### Casting & Tooling

All castings Quotations are based on Buyer accepting up to 10% nominal overruns or underruns on each individual item, such variations in yields being incidental to the process, unless otherwise specified.

Casting samples from new dies will be submitted for approval to Buyer by Seller before proceeding with production. When conflicting models and prints are submitted by Buyer in connection with any Quotation, prints will be followed. Castings made in accordance with approved samples will be considered as complying with Buyer's specifications. If Buyer requests production prior to sample approval, Buyer will be responsible for the costs of such prior production. Castings will be furnished subject to commercial variations incident to the investment casting process but without machining, testing or heat treatment unless otherwise agreed to in writing. The alloys specified in this Quotation will be used and are approved by Buyer unless otherwise instructed in writing. Tooling will be charged to Buyer and becomes Buyer's property, but will remain in Seller's possession and control for exclusive use for

## TERMS AND CONDITIONS OF SALE

manufacture of Buyer's Products. Should it become necessary or desirable for Buyer to remove any tooling, such tooling will be forwarded to a location designated by Buyer at Buyer's expense. In addition, at any time, Seller may forward tooling to Buyer at Buyer's expense. Buyer is responsible to carry those forms of insurance that will adequately cover the cost of tooling in Seller's possession. Seller will manufacture to Buyer's drawings, prints and specifications. If Buyer's performance requirements cannot be met using the provided sample drawings, prints and specifications, Seller reserves the right to charge for engineering changes and testing to meet Buyer's performance requirements. Seller does not warrant that any documentation or test information that it may provide regarding its Products will be in a form that is useable or sufficient for Buyer's compliance with any particular government regulation, permit requirement, or code or ordinance provision. Seller assumes no responsibility for particular uses to which such documentation or test information may be put by Buyer, unless such documentation and test information are clearly specified, reviewed, and approved by Buyer in advance of placing an order.

### Sales Tax

Buyer shall pay any taxes or charges of any nature that may be required to be paid or collected under any existing or future law upon or applicable to the sale, purchase, manufacture, processing, transportation, delivery, use or consumption of any of the Products, whether levied or assessed against Seller, Buyer or the Products. Sales tax exemption certificates are required to be provided by Buyer. If Buyer provides Seller with a sales tax exemption certificate that is subsequently determined to be invalid, or if Seller fails to collect all applicable taxes or charges upon Buyer's purchase, Buyer will pay to Seller the amounts Seller is required to collect from Buyer.

### Invoices and Charges

Unless otherwise specified in the Quotation, a 30% down payment must accompany Buyer's Purchase Order, 40% of the purchase price is due at time of shipment, and the remaining balance shall be due 30 days following the date of first delivery of any Products. All payments not made when due are subject to a service charge of the lesser of the maximum rate allowed by law or 1.5% per month, computed on the number of days actually elapsed in a 360-day year. Buyer agrees to pay any and all court costs and legal and collection fees for Buyer's failure to timely pay or for any other breach of this Contract by Buyer in the event Buyer's account is placed for collection. Buyer grants to Seller a security interest in the Products supplied to Buyer under the Contract until the full purchase price is paid. At Seller's request, Buyer will execute one or more financing statements pursuant to the Uniform Commercial Code ("UCC") in form satisfactory to Seller or other documents reasonably requested by Seller to protect Seller's security interest in the Products. Buyer agrees that Seller may, in Seller's discretion, file one or more financing statements pursuant to the UCC and further agrees that Seller is authorized to file such financing statements without the signature of Buyer when permitted by law. If Seller determines in its sole discretion that Buyer's credit is impaired or if Buyer fails to make payments in accordance with these Terms and Conditions, Seller has the immediate right to demand assurance from Buyer that payment in full for the Products will be made prior to any further performance by Seller. Buyer approval is required before any engineering and/or design changes are made by Seller to items specifically being ordered from the Quotation. Once Buyer approves such changes, Seller assumes no responsibility for the success of such changes and may increase the amounts payable under the Contract to reflect such changes. In the

**TERMS AND CONDITIONS OF SALE**

event of a cancellation or hold on an order made with respect to engineering and/or design changes, Seller will issue and invoice to cover the cost of Seller's work accomplished up to the time of the formal notification of said cancellation or hold.

General

Buyer agrees to indemnify and hold Seller harmless from all claims, damages, losses, costs, expenses and other liability of whatever nature (including, without limitation, reasonable attorneys' fees and legal expenses) that Seller suffers or incurs from either Buyer's or a third party's use of the Products. Seller and Buyer agree that the Contract shall be governed by the laws of the State of Minnesota, without regard to its conflict of laws. In the event of a dispute which Seller and Buyer are unable to resolve through negotiations, Seller and Buyer hereby agree to the exclusive venue of the District Court for Hennepin County, Minnesota, or, if jurisdictionally available, federal courts located in Minneapolis, Minnesota. These Terms and Conditions shall survive the termination and performance of the Contract. Prior written consent is required for any modification to the Contract. Buyer shall not assign its rights or obligations under the Contract without Seller's prior written consent.