

# TERMS AND CONDITION CONTRACT

## I. ACCEPTANCE, PRICE AND TERMS

1. QUOTATION: This quotation shall expire 60 days after its issue date and is subject to change at any time prior to the Seller's final approval of Purchaser's acceptance as provided below. This quote supersedes all previous proposals, understandings and discussions.
2. CONTRACT TERMS: Upon any acceptance by purchaser which authorizes Seller to begin work or to ship goods or provide services, these Terms and Conditions of Contract shall constitute the Contract of Sale for the goods or services described in the Quotation. These Terms and Conditions of Contract shall be exclusive and shall prevail and shall supersede any terms and conditions which may appear on any forms or documents issued by Purchaser for any reason and which may attempt to be exclusively applicable to the transaction. Any acceptance by Purchaser which differs in the specifications, price or terms of delivery stated in the Quotation is subject to final approval by an authorized officer of Seller.
3. All prices are F.O.B. Seller's plant unless otherwise specified.
4. The amount of any sales, use, excise, or similar taxes applicable to the equipment sold, imposed upon and paid by the seller shall be added to the purchase price, or billed to the Purchaser.
5. Payment terms are thirty (30) days net. Any discount, indicated in writing on the front hereof, is allowed only if payment is postmarked within ten (10) days of the invoice date and received by Seller within fifteen (15) days of that invoice days.

## II. SHIPMENT AND DELIVERY

1. All shipping and transfer of risk of loss to Purchaser shall be F.O.B. Seller's plant
2. Delivery dates will be determined from the date Seller receives and acknowledges a specific order.
3. Seller shall not be liable for any delay in delivery or failure to deliver due to any causes beyond control of Seller or its suppliers or subcontractors, including but not limited to, fires, floods, strikes or other labor disputes, accidents to machinery, acts of sabotage, riots, precedents or priorities granted at the request or for the benefit, directly or indirectly, of the Federal or any State government or any subdivision or agency thereof, delay in transportation or lack of transportation facilities, restrictions imposed by Federal, State or other governmental legislation or rules or regulations thereof.
4. If Purchaser defers the delivery date of any order, Purchaser shall be liable for work completed at full order prices and work in progress in proportion based on the price of the work completed to the total order price plus overhead from the date of deferral. Such deferral must be in writing, addressed to Seller.
5. Orders acknowledged by Seller can be cancelled only upon payment of reasonable cancellation charges which shall be based on expense already incurred and commitments made by Seller and which shall include normal profit and costs of rescheduling.

## III. WARRANTY, SERVICE AND LIABILITY

1. WARRANTY: The Seller warrants the equipment and components of its manufacture to be free from defective materials or workmanship for a period of one (1) year from date of shipment from the factory when given normal and proper usage and while owned by the original purchaser from Seller. The Purchaser shall notify the Seller immediately of any defects and the Seller shall thereupon, at its sole option, repair or replace the defective equipment or components or return the pro-rata portion of the purchase price. The Seller shall in no event be held liable for damage or delay caused by defects and will not accept any charges for work performed by Purchaser in making adjustments or repairs to the equipment or components unless such work is authorized in writing in advance by the Seller. Any equipment or components not of the Seller's own manufacture are sold only under such warranty as the makers thereof give the Seller and the Seller is able to enforce, but such items are not warranted by the seller in any way. When components or equipment are sold to be assembled in a combination of Purchasers design, the Seller's warranty shall apply to each component or item of equipment separately and not to the combination or assembly. The Seller shall not be liable for incidental or consequential damages, losses or expenses in anyway arising from or related to its equipment and components. The term consequential damages shall include but not be limited to damages to all machines, equipment or goods of Purchaser or others, interruption of production, loss of profits, delays of any kind, administrative expenses or overhead. The liability of the Seller, whether in tort, contract, warranty or any other theory arising out of the supplying of the equipment or components shall not in any case exceed the cost of accepting their return F.O.B. Seller's factory for full credit. THE FORGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND THE WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING SPECIFICALLY BUT WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS OF PURPOSE, EACH OF WHICH IS HEREBY DISCLAIMED.
2. INSTALLATION AND SERVICE: The equipment covered by this contract is intended to be installed by and at the expense of Purchaser unless otherwise expressly stipulated. The Seller shall furnish standard instructions for installation and start-up operation. If Purchaser requests assistance in installation and start-up operation, the Seller may at its option charge for these services at the current rate per day specified by the Seller for time plus expenses.
3. PATENTS: Purchaser shall promptly notify Seller of, and the Seller may at its option and expense defend, any suit or proceeding brought against Purchaser based on a claim that any equipment, or any part thereof, designed or specified by Seller under this Contract and used for a purpose intended by the Seller constitutes an infringement of any patent issued by any world-wide patent office, and Purchaser shall give Seller all information and reasonable assistance requested for defense of same. In case of patent designed or specified by Seller, or any part thereof, is in such suit held to constitute infringement and its use enjoined, the Seller shall, at its sole option and its own expense, either procure for the Purchaser the right to continue using said equipment; or replace same with non-infringing equipment; or modify it so it becomes non-infringing; or remove said equipment and refund the purchase price less 20% for each year or fraction thereof since it was shipped to Purchaser. No responsibility whatever is assumed for any infringement of patents by products produced with the equipment supplied by Seller nor for any infringement arising from conjoint use of the equipment furnished hereunder with any apparatus, and in the event that Seller is held liable by reason of such products and/or such conjoint use, Purchaser shall assume all damages and costs, if any, assessed against the Seller. This paragraph states the entire and exclusive liability of Seller for patent infringements.
4. LIABILITY: The equipment manufactured by Seller is primarily for use in combination with machinery and controls supplied by Purchaser or other and Purchaser shall use and shall require its employees to use all applicable safety devices and guards and maintain the same in proper working order. Purchaser shall use and require its employees to use safe operating procedures in operating the equipment purchased hereunder and to comply with OSHA and other legal requirements. Alteration or misuse by Purchaser of the equipment purchased hereunder shall relieve Seller from any liability to third parties or to Purchaser. Purchaser further agrees to notify the Seller in writing, certified mail, return-receipt-requested, promptly and in any event within ten (10) days of any accident or malfunction involving Seller's equipment which results in personal injury or damage to property and, if requested, to cooperate fully with Seller and its representatives in investigating and determining the causes of such accident or malfunction. If Purchaser alters the equipment or fails to observe the obligations contained in this paragraph, and to the extent that Seller's equipment is used in combination with machine or controls not of Seller's manufacture for which Purchaser shall accept all risk, Purchaser agrees to indemnify and save Seller harmless from any and all liabilities or obligations for any bodily injury, death or damage to property, including costs of defense of litigation, directly or indirectly, arising out of or in connection with the operation, use, installation or repair of the equipment or components purchased hereunder.

## IV. GENERAL PROVISIONS OF CONTRACT

1. This Quotation and these Terms and Conditions of Contract contain the entire and exclusive agreement of the parties relating to the sale of the goods or services specified and supersede all previous written or oral proposals, understandings and discussions.
2. The Parties acknowledge that the transaction which is the subject matter of this Contract bears a reasonable relation to the State of Michigan, and that the law of the State of Michigan shall govern their rights and duties.
3. The Parties may neither assign their rights nor delegate performance of their duties under this Contract unless otherwise agreed to in writing.
4. No waiver of a breach or an enforcement of any provision of this Contract shall constitute a waiver of any other breach or of the right to subsequently enforce such provision.
5. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof and this Contract shall be construed as if such invalid, illegal, or unenforceable provision(s) had never been contained herein.
6. Stenographic or clerical errors are subject to correction and prices subject to approval as provided herein.
7. No manufacturer's representative, salesman, agent or employee of the Seller, except an authorized officer, has any authority to obligate the Seller to any terms, stipulations or conditions not herein expressed or to waive or alter any of the items or conditions herein.