

TERMS & CONDITIONS OF SALE

PRICES AND TERMS OF PAYMENT

- A. Prices quoted are firm for no more than 30 days from the date of quotation subject to any conditions stated in Seller's quotation or in an order submitted by Buyer and expressly accepted in writing by Seller. Seller will not be bound by any price sheet or quote other than a price quote signed by an authorized representative of Seller.
- B. Prices on orders accepted by Seller are firm, to the extent stated in the accepted order, subject to the following:
1. The purchase order must provide for shipment within six months of the date of purchase order.
 2. Any shipment made more than six months after such a date is subject to a price adjustment, at Seller's sole discretion, to the Seller's price in effect at the time of shipment, which will not exceed 125% of the price on the acknowledged purchase order.
 3. Any shipment more than 12 months after the date of purchase order will be invoiced at Seller's price in effect at the time of shipment.
- C. On orders having a total price of less than \$100,000 payment will be due "net in 30 days" from date of shipment, unless otherwise specifically agreed by Seller. On orders having a total purchase prices of \$100,000 or more terms are 10% with order, 45% upon Seller's receipt of Buyer's approval of drawings, 40% within 30 days after shipment and 5% at the start-up of the products or within 90 days of shipment, whichever occurs sooner.
- D. Orders are subject to a net minimum dollar amount. Request for expedited orders (overnight, next day air, etc.) will be subject to an expedite fee in addition to shipping charges.
- E. Minimum Invoice: If an order amounts to less than \$25 net, a minimum charge of \$25 will apply. A \$50 surcharge will apply on all expedited orders. Direct shipments from vendors will be invoiced at the same minimum charge as determined by the vendor.
- F. The price of parts, components and other items not manufactured by Seller is subject to adjustments by Seller to reflect price changes by Seller's suppliers.
- G. Orders accepted by Seller are subject to credit investigation and approval. If Buyer's financial condition at any time does not, in seller's sole discretion, justify the terms specified, Seller may require payment in advance of shipment or, if shipment has been made, recover shipment from the carrier. A service charge of 1-1/2% per month will be added to all accounts 30 days past due.
- H. Any tax or governmental change now or hereafter levied upon the production, sale, use or shipment of products ordered or sold will be charged to and paid by the Buyer, unless the Buyer has provided Seller with a tax exemption certification acceptable to the applicable taxing authorities. Such taxes are not covered in the selling price unless expressly stated on the quotation form.

SECURITY INTERESTS

Notwithstanding transfer of title to Buyer, the Seller retains and the Buyer hereby grants to the Seller a purchase money security interest in all products sold, and Buyer hereby irrevocably appoints Seller as its attorney-in-fact to execute and deliver, in Buyer's name, any such financing statement of other documents as may be necessary under the Uniform Commercial Code or other applicable laws governing the items sold herein to perfect Seller's interest therein.

Buyer will obtain and maintain insurance against the loss or damage naming Seller as an additional insured in an amount sufficient to protect Seller's interest in all products until the purchase price has been paid in full.

CHANGES, ORDERS AND CANCELLATION

Seller may adjust the selling price to cover any requested change in specification or other terms after the receipt of the Buyer's order. Orders accepted by Seller shall not be canceled by the Buyer except at Seller's sole discretion. In the event of any cancellation, Seller reserves the right to impose a cancellation charge sufficient to cover all losses and out-of-pocket costs incurred by Seller in connection to such order, including materials and labor charges and cancellation charges from vendors, plus a cancellation charge of 20% of the original face amount of the order to compensate the Seller for its loss in profit.

RETURNED GOODS

Products may not be returned for refund or credit until after Seller has agreed to accept them. Inspection by a Seller representative may be required before return authorization is granted. A minimum restocking and handling charge of 25% (plus cost of any missing parts or components and inbound freight) will apply to all such returned products. All transportation charges for such products must be paid by Buyer.

TRANSPORTATION TERMS AND CLAIMS

Unless otherwise stated on Seller's quotation form, all process are F.O.B. Seller's shipping point. Delivery to the initial carrier shall constitute delivery to the Buyer. Seller's responsibility ceases and title of the goods passes, subject to Seller's security interests upon delivery in good order to such carrier, and all products are shipped at the Buyer's risk. The Buyer agrees to examine all deliveries carefully before signing transportation receipts. If products are visibly damaged the Buyer shall require that written confirmation of damage be noted on the carrier's delivery receipt and confirmed by the driver for the carrier. If damage is discovered after unpacking, the buyer shall notify Burnham Commercial Customer Service at once so that an inspection can be requested and the claimed damage substantiated by the carrier's representative. All product and original packaging must be retained.

FORCE MAJEURE AND STORAGE

- A. Seller shall not be liable for any delay or failure in the delivery or shipment of products or for any damages suffered by reason of such delay or failure directly or indirectly, due to fire, flood, other weather conditions, accident, riots, war, embargo, labor stoppages, inadequate transportation facilities, shortage of materials or supplies, regulation by government authority or any cause beyond the Seller's control.
- B. Seller reserves the right to allocate available production among its customers in any fair and reasonable manner that it determines is necessary or desirable.
- C. If delivery is delayed due to any cause beyond the Seller's control, Buyer shall reimburse Seller for any added costs. Without limiting the foregoing, product on which manufacturer or delivery is delayed due to cause may be placed in storage by Seller, for the Buyer's account and risk, and regular charges therefore and expense in connection therewith shall be paid by the Buyer. If, in Seller's opinion, it is unable to obtain or continue such storage, the Buyer will, on request, provide or arrange for suitable storage facilities and assume all costs and risks in connection therewith.

SHORTAGES, VARIANCES AND WEIGHTS

No claims for variance from or shortages in orders will be considered unless presented within 30 days after receipt of products. Any shipping weights that are given or estimated are approximate, for the Buyer's convenience only, and not guaranteed by Seller.

LIMITS OF LIABILITY

Any action by Buyer on this contract, must be commenced within one year after the cause of action accrues. Actions on Seller's Warranties shall be limited as provided therein. Seller shall in no event have any liability for any liquidated damages, consequential damages or penalties, whether on account of lost profits, or otherwise, unless specifically agree in writing signed by an authorized representative of Seller. In all cases, Seller's liability shall not exceed the amount of the invoice.

PRODUCT CHANGES

Seller reserves the right to make changes in products of any kind without prior notice, and to deliver revised designs or models of products against any order. Seller shall have no responsibility whatsoever with respect to changes made by the manufacturer of products sold but not manufactured by it.

PATENTS

Products manufactured and sold by Seller may be used by the Buyer pursuant to such patent rights as Seller may own or enjoy. Seller shall not be liable for any use such products may be put as part of any system, mechanism or process covered by patent rights of others.

TESTS

Any tests requested by the Buyer to determine the performance of products covered by Seller's quotation, must utilize procedures acceptable to Seller and the Buyer is responsible for costs thereof. Whenever an order includes start-up or service agreement, Seller shall not be obliged to provide start-up or other service as long as payment to Seller is default.

CONFLICTING PROVISIONS OFFERED BY BUYER

Any terms and conditions of Buyer's purchase order or acceptance which are different, from, in addition to inconsistent with the terms and conditions contained herein, are hereby objected to, and will not be binding on Seller in any manner whatsoever unless accepted by Seller in writing. Seller shall ship products referred to in this document only on the condition that the terms and conditions of sale set forth hereon shall be binding on the Buyer.

APPLICABLE LAW

Any order or contracts received by Seller from Buyer shall be governed by, construed and enforced by the laws of the Commonwealth of Pennsylvania, conflict of law provisions notwithstanding.

COMPLETE AGREEMENT

The complete agreement between Seller and Buyer is contained herein and any specifications signed by the Seller, and no additional or different terms or conditions stated by Buyer shall be binding unless agreed to by Seller in writing. Neither course of dealings, nor usage of trade shall be relevant to supplement or explain any terms used in this Agreement, and this Agreement may be modified only by a writing signed by both Seller and Buyer. The failure of Seller to insist upon strict performance of any of the terms and conditions stated herein shall not be considered as a continuing waiver of any such terms and conditions or any of Seller's other rights.

CHANGES IN TERMS

These terms and conditions of sale are subject to change by Seller from time to time without prior notice.



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