



## Terms & Conditions

**TERMS AND CONDITIONS OF SALE** Vendor accepts Purchaser's order on the express condition that Purchaser agrees to and is bound by the terms and conditions set forth below. All orders by Purchaser shall be subject to the following terms and conditions of sale. Such agreement shall be conclusively and irrevocably evidenced by Purchaser accepting delivery of shipment under such order or by Purchaser's payment of the invoice covering such payment.

### 1. EFFECTS OF TERMS AND CONDITIONS

The sale of the Goods described herein (the "Goods") is subject to and governed solely by these terms and conditions and no terms or conditions of Purchaser's purchase order, any agreement or any other understanding shall be binding on Vendor or apply in any manner to the sale of such Goods. No modification of these terms and conditions shall be of any force or effect unless signed by an authorized officer of Vendor. No specification, drawing, print or photograph prepared by Purchaser relative to Purchaser's order shall be binding on Vendor for any purpose unless signed by an authorized officer of Vendor. Vendor reserves the right to modify these terms and conditions and the terms of any offer/quote at any time and from time to time without notice in its sole discretion.

### 2. PRICES & TERMS OF PAYMENT

Prices for Goods are subject to adjustment to reflect (i) any increase in import duty, import surcharge or other government charge, insurance or freight which becomes effective after the date of the Purchase Order and is payable by Vendor, and (ii) any increase in the cost of manufacture of the Goods substantially covered by an extraordinary increase in price of raw materials which could not have been foreseen on the date of the Purchase Order.

Unless otherwise specified, prices are quoted in Canadian dollars for Goods being sold from inventory. Payment terms are net thirty (30) days for cash or cheque without discount. Interest at the rate of 2% per month will be charged on past due accounts (26.8% per annum). If Purchaser's account is past due, in addition to other rights and remedies, Vendor may suspend shipments, deliveries or performance hereunder or under any other contract with Purchaser until Purchaser's account becomes current or until Vendor receives satisfactory security or cash prior to shipment.

### 3. DELIVERY

Delivery terms are Ex Works (as per current Incoterms) Vendor's delivery truck at Vendor's warehouse, and Ex Works manufacturer's plant for domestic Goods being drop-shipped to Purchaser or as otherwise agreed to by Vendor's written consent. Shipping dates are approximate only and Vendor assumes no responsibility for delays. If Purchaser requires emergency deliveries or outside of normal business hours, any extra costs shall be borne by Purchaser. The time period specified herein within which delivery is to be made shall commence upon receipt by Vendor of Purchaser's written acceptance of Vendor's Order Acknowledgement. Delivery must be taken by Purchaser or adequate shipping instructions furnished to Vendor within ten (10) days of notification that the Goods are ready for delivery, failing which the full purchase price shall forthwith become due and payable, and Vendor may at its option, either store the Goods and bill Purchaser for storage charges or dispose of same for Purchaser's account and risk at a public or private sale, or exercise such other rights and remedies as may be available to Vendor in the circumstances.

### 4. TITLE AND RISK OF LOSS

All right, title and interest in and to the Goods shall remain with Vendor until such Goods have been paid for in full. However, such Goods shall be entirely at Purchaser's risk from the time placed on a common carrier and the loss, damage, deterioration or destruction of the Goods thereafter shall not release Purchaser from its obligations hereunder. In the event of any default to make payment by the Purchaser, Vendor shall have the right to take possession of any Goods already delivered and to remove same without notice and without legal proceedings, in which case all payments theretofore made shall be credited to the Purchaser's account after deduction of a reasonable rental fee and the costs of repossession, if any, including reasonable legal fees. Purchaser hereby agrees to defend, indemnify, and save harmless Vendor from any and all loss arising out of any or all claims, suits and demands by reason of, but not limited to, the retention of title to the Goods by Vendor while same are at the Purchaser's risk.

### 5. CLAIMS

All claims for missing items or inaccuracies must be made within two (2) days of the date of receipt of Goods.

### 6. TAXES

Any tax of any nature including, without limitation, any excise, sales, use, Goods and services or other similar taxes which the Vendor may be required to pay, to collect or to reimburse to others, by reason of the manufacture, ownership, use or sale of any product sold or service provided hereunder shall be the sole responsibility of Purchaser and shall be added to the amount to be paid hereunder.

### 7. LIMITS OF CONTRACT

Only the Goods specifically described on the reverse side hereof are subject to the terms and conditions herein.

Unless expressly specified, installation, repair or other similar services are not included. Any services so specified shall be governed by the terms and conditions hereof.

## **8. TECHNICAL DATA**

All drawings, descriptive matter, weights, dimensions and performance data submitted with or made a part of Vendor's Order Acknowledgement are based upon information furnished by the Purchaser in accordance with its requirements and Vendor assumes no responsibility for the accuracy of such information

## **9. FORCE MAJEURE**

For all purposes hereof, force majeure includes any act of God, war, mobilization, governmental regulation, strike, lockout, drought, flood, total or partial fire, obstruction of navigation, loss, damage or detention in transit, defective materials or delays by shippers, or other contingences or causes beyond Vendor's control which might prevent the manufacture, shipment or delivery of Goods covered hereby. Performance of Vendor's obligations may be suspended pending force majeure, without Vendor being responsible to Purchaser for any damages or losses resulting from such suspension.

## **10. LIMITED WARRANTY**

Subject to the following, Vendor warrants that the Goods sold by it hereunder will conform to specifications and applicable industry standards and title will be clear from any security interests or encumbrances. Vendor shall ensure that Purchaser benefits from existing manufacturers' warranties and in no event shall Vendor's warranty exceed the warranty given by manufacturers' of the Goods including for any indemnification for intellectual property infringement. The sole obligation of Vendor under such warranty shall be to replace or repair as deemed appropriate by manufacturer and provide assistance to Purchaser for any claim made to manufacturer of the Goods. THE ABOVE IS THE SOLE AND EXCLUSIVE WARRANTY, EXPRESS OR IMPLIED, PROVIDED BY VENDOR AND IS IN LIEU OF ALL OTHER WARRANTIES, OF ANY NATURE WHATSOEVER, CONTRACTUAL, LEGAL, STATUTORY OR OTHER, AND WHETHER FOR MERCHANTABILITY, QUALITY, FITNESS OR OTHERWISE.

## **11. LIMITATION OF LIABILITY**

THE LIABILITY OF VENDOR WILL NOT UNDER ANY CIRCUMSTANCES EXCEED THE PURCHASE PRICE OF THE GOODS FURNISHED AND IN NO EVENT SHALL VENDOR BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR CONTINGENT DAMAGES OR COMMERCIAL LOSS OF ANY KIND (INCLUDING DAMAGES FOR LOSS OF PROFITS) ALLEGEDLY SUSTAINED BY PURCHASER. Purchaser acknowledges that the allocation of risk set forth in these terms and conditions allows Vendor to provide the Goods at a lower cost, and Vendor would not enter into this transaction without these limitations on its liability.

## **12. INDEMNITY**

Purchaser agrees to indemnify and hold Vendor harmless with respect to any third party claims for personal injury (or death), property damage or other loss which claims are based upon defective or allegedly defective design, material or workmanship furnished by Vendor.

## **13. COMPLIANCE**

In accordance with the Vendor's commitments to ethics and social responsibility, Purchaser declares to: (a) operate in compliance with national and international laws, (b) comply with principles of fair competition, (c) reject all forms of anti-trust, bribery and corruption, and (d) directly or indirectly, not make any payment or gift to its customers, to government officials or to directors and employees of Vendor in a manner contrary to applicable laws. Purchaser acknowledges and confirms that it has received and read a copy of Vendor's Code of Conduct and Ethics Guide, which are also available on the Vendor's website.

In addition, Purchaser commits to being consistent with the principles of the Universal Declaration of Human Rights, the UN Global Compact and Convention on the Rights of the Child and Conventions of the International Labour Organization, to which Vendor adheres. Purchaser commits in particular: (i) to abide by human rights and freedoms and personal dignity, (ii) not to use child labour, forced labour or covert labour, (iii) not to discriminate between its employees on grounds prohibited by applicable law, (iv) not to use any mental or physical coercion, (v) to take reasonable action to prevent any psychological harassment and (vi) to put a stop to any psychological harassment situation in the workplace, (vii) to respect the laws in force related to employment, labour, pay equity, employment equity and health and safety. The parties agree that this provision constitutes Vendor's prerequisite for entering into this Agreement. Should Purchaser fail to meet its obligations and not remedy the situation within fifteen (15) days of a formal notice sent by Vendor, Purchaser's violation of any of the obligations contained in this Section 13 may be deemed by Vendor a material breach and the Agreement shall be automatically terminated. Purchaser shall defend, indemnify and hold Vendor harmless from all liabilities incurred as a result of any such violation and termination of the Agreement.

## **14. EXPORT CONTROL**

Goods and associated materials supplied or licensed hereunder may be subject to various applicable export laws and regulations including export control, economic restrictions or trade embargoes imposed by any applicable governmental authority. It is the responsibility of the Buyer to comply with all such laws and regulations. Purchaser shall defend, indemnify and hold harmless Vendor from any claims resulting from the breach of such laws and

regulations. Purchaser shall undertake that all third parties receiving such supply from Purchaser comply with this requirement. Notwithstanding any other provision to the contrary, if Canadian or provincial laws require export authorization for the export or re-export of any Good or associated technology, no delivery can be made until such export authorization is obtained, regardless of any otherwise promised delivery date, and Vendor will be relieved of any obligation relative to the delivery of the Good(s) subject to such delayed authorization without liability of any kind to Vendor. Further, if any required export authorization is denied, Vendor will be relieved of any further obligation relative to the sale and delivery of the Good(s) subject to such denial without liability of any kind Vendor. Purchaser shall defend, indemnify and hold Vendor harmless from any delays or any other losses arising out of Purchaser's failure to timely provide any export or import documentation. Vendor will not comply with boycott related requests except to the extent permitted by Canadian law and then only at Vendor's discretion.

#### **15. ASSIGNMENT**

Purchaser shall not assign or transfer this agreement or any interest in, or monies under, it without the written consent of Vendor and any assignment made without such consent shall be null and void.

#### **16. GOVERNING LAW AND INVALIDITY**

Any provision hereof which is contrary to law will not invalidate any other provision thereof. The foregoing sets forth the sole and entire agreement between the parties with respect to the Goods supplied hereunder. These terms and conditions and the agreement evidenced thereby shall be governed by and interpreted in accordance with the laws of the province of Canada where the Goods are delivered. If deliveries are made outside Canada the governing laws shall be the laws of the Province where the Goods are shipped from. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this agreement or to any order.

#### **17. ENTIRE AGREEMENT**

These terms and conditions contain the complete and exclusive understanding between the Vendor and the Purchaser and no other agreements, understanding or proposal, written or oral, between the Vendor and the Purchaser shall be binding unless agreed to in writing by the Parties. Any additional or conflicting terms in any document generated by the Purchaser will not operate as an acceptance unless such terms are agreed upon in writing by the Vendor. These terms and conditions can only be amended by Vendor in accordance with Section 1 above or by a writing signed by the Parties.