

1. Seller's quotation, bid or other communication to Buyer of proposed prices for Seller's products or services shall constitute an offer which may only be rejected, or accepted on the condition that Buyer assents to the terms contained herein. Buyer's acceptance hereof, is limited and restricted to these terms. Seller objects to and refuses to be bound by any terms additional to or different from those contained herein. Buyer's issuance of a purchase order, oral acceptance, partial payment or any other action consistent with acceptance shall be deemed acceptance of Seller's offer.
2. Prices are subject to change without notice, and all orders are to be invoiced at Sellers prices prevailing when shipped or provided.
3. Any taxes which Seller may be required to pay or collect with respect to the sale, purchase, delivery, transportation, storage, processing, use, or consumption of any of the products or services covered hereby, shall be for the account of Buyer, who shall promptly pay the amount thereof to Seller upon demand.
4. All accounts are payable in United States funds, free of exchange, collection or other charges. If Buyer fails to fulfill the terms of payment or if Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may suspend production or service and/or decline to make shipment, delivery or service except upon receipt of cash or security satisfactory to Seller.
5. Unless otherwise specifically provided herein, delivery will be made f.o.b. point of shipment, all risk of loss shall pass to Buyer upon delivery to carrier, and Buyer shall be responsible for obtaining insurance if desired. The method and agency of transportation and the routing, unless specified on the face hereof, will be selected by Seller, and Seller reserves the right to ship freight collect. Shipping and other performance dates are approximate and are based on prompt receipt of all necessary information.
6. Seller shall not be liable for any delay in performance due to fire, explosion, casualty, strike or other labor difficulties, shortages of material, utility, facility or labor, delay in transportation, breakdown or accident, or any cause whether similar or dissimilar beyond Seller's reasonable control, and Seller shall have such additional time for performance as may be reasonably necessary under the circumstances and the right to apportion its production among its customers in any manner it sees fit.
7. Any claims for shortages, damaged products or damage due to services, or non-conformance of products or services with the order must be made in writing within ten (10) days after receipt, and Seller must be afforded an opportunity to investigate.
8. Cancellation or alteration of an order or return of any product by Buyer may not be made without advance written consent by Seller and, at Seller's option, shall be subject to a cancellation, alteration or return charge acceptable to Seller.
9. Seller warrants that its products or services are free from defects in material and workmanship.
10. IN THE EVENT OF BREACH OF ANY WARRANTY OR OTHER OBLIGATION ARISING HEREUNDER, SELLER'S SOLE AND EXCLUSIVE LIABILITY SHALL BE AT ITS SOLE OPTION TO REPAIR, REPLACE, F.O.B. POINT OF SHIPMENT, ANY DEFECTIVE PRODUCT, OR TO REFUND THE PURCHASE PRICE IN EXCHANGE FOR THE RETURN, TRANSPORTATION PREPAID, OF ANY SUCH PRODUCT OR IN THE CASE OF SERVICES, TO REFUND OR WAIVE ANY UNPAID SERVICE FEE; in any case provided that such product or service within 12 months from date of shipment or provision to Buyer is found by Seller to have been defective at the time of such shipment or service, that the product or service has been installed, operated or utilized in accordance with generally approved practice and in accordance with Seller's instructions, that no repairs, alterations or replacements have been made by others without Seller's written approval, and that Buyer notifies Seller in writing within 10 days after the defect becomes apparent and promptly furnishes full particulars in connection therewith; and PROVIDED FURTHER THAT IN NO EVENT SHALL THE AGGREGATE LIABILITY OF SELLER IN CONNECTION WITH BREACH OF ANY WARRANTY OR WARRANTIES EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCTS OR SERVICES PURCHASED HEREUNDER. Seller, may, at its option, require the return of any product, transportation and duties prepaid, to establish any claim of defect made by Buyer. EXCEPT AS EXPRESSLY STATED IN THIS INSTRUMENT, SELLER MAKES NO WARRANTIES EXPRESS OR IMPLIED, AND DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES SOLD HEREUNDER ARE MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE.
11. Seller will defend at its own expense any suit or legal proceeding instituted against Buyer, and will pay any damages and costs awarded therein against Buyer, insofar as the same are based on a claim that any product furnished hereunder, except as excluded below, in itself constitutes an infringement of any United States patent, provided Buyer gives Seller prompt written notice of such infringement claim and of the institution of such suit or proceeding and also gives Seller all necessary authority, information and reasonable assistance to enable Seller, at Seller's option, to settle or defend the same. In case any said product is held in such suit to constitute an infringement and its use is enjoined, Seller at its own expense will either procure for Buyer the right to continue using said product, or modify same so that it becomes non-infringing, or replace it with a non-infringing product, or remove the product and refund the purchase price paid therefor by Buyer. The foregoing provisions state Seller's entire obligation and liability for patent infringement; and it is understood and agreed that there shall be excluded from the operation of said provisions any and all products or services provided in accordance with particular designs, specifications or instructions expressly or impliedly prescribed by Buyer, and Buyer will indemnify and hold harmless Seller from and against all loss, cost, expense, damage and liability of any nature or kind (including attorney's fees, advanced as incurred) for or on account of any patented or unpatented invention or trade secret in compliance with any such designs, specifications or instructions.
12. The Buyer and Seller agree that if either party brings a future lawsuit or other litigation against the other for any reason, the prevailing party shall recover its reasonable attorneys' fees, court costs, expert witness fees, and other reasonable expenses in connection with such litigation. The Buyer and the Seller further agree that in any subsequent litigation, the term "costs incurred" in Federal Rule of Civil Procedure 68(d), or any substantially similar state rule or for the purposes of any arbitration, shall include reasonable attorneys' fees as between the parties. By way of limited example, if Buyer were to bring a patent infringement lawsuit against Seller seeking damages and injunctive relief, and prior to the trial Seller were to offer judgment under FRCP 68 permitting a judgment of injunctive relief and an award of \$100 in damages which offer Buyer did not accept within the time allotted by the rule, and subsequently Buyer were to obtain the injunctive relief but recover less than \$100 in damages, then Seller would be considered the "prevailing party" for those fees and costs incurred after the offer had expired and Buyer would be considered the "prevailing party" for those fees and costs incurred prior to the expiration of the offer.
13. SELLER SHALL NOT, EXCEPT AS SET FORTH ABOVE, BE OTHERWISE LIABLE TO BUYER OR TO ANY PERSON WHO SHALL PURCHASE FROM BUYER, OR USE, ANY PRODUCTS OR SERVICES SUPPLIED HEREUNDER FOR DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF PRODUCTION OR LOSS OF PROFITS RESULTING FROM ANY CAUSE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ANY DELAY, ACT, ERROR OR OMISSION OF SELLER. This offer to purchase will be governed exclusively by the internal laws, and in the courts, of Kentucky, including the Uniform Commercial Code (subject to Buyer's right to elect arbitration, under rules reasonably specified by Buyer), for all or any portion of any disputes hereunder.
14. Technical information, recommendations and advice as to properties and usages of materials, design, installation and use of products or services, engineering and other matters are provided as an accommodation and are intended only as suggestions. Although believed to be accurate, SELLER ASSUMES NO OBLIGATION OR LIABILITY FOR ANY RESULTS OBTAINED IN THEIR USE OR APPLICATION, AND THEY ARE NOT TO BE CONSTRUED AS ESTABLISHING ANY WARRANTY, EXPRESS OR IMPLIED.
15. Buyer shall ensure that its employees, officers, directors, managers, partners, owners, representatives and agents ("Buyer Parties") fully comply with all the provisions of the U.S. Foreign Corrupt Practices Act of 1977, as amended. Buyer, and Buyer Parties, are strictly forbidden from offering or providing any direct or indirect payments, gifts or other consideration and/or extending any favors to any government officials or officers, managers in any national or privately held companies, political party candidates, or any relatives, spouses or other family members of the foregoing, in exchange for favorable treatment or promotion of the Seller's products or services, terms of service or sale, or enforcement of the Seller's rights or obligations.
16. Buyer agrees, with respect to the exportation or resale of the products or services, and or parts thereof by Buyer, to comply with all the requirements of the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR), regulations issued thereunder and any subsequent amendments thereto, and all other national and United States Government export control laws and regulations on export controls. Export Controls include, but are not limited to, laws and regulations pertaining to export licenses, restrictions on export to embargoed countries and restrictions on sales to certain persons and or entities. Buyer shall immediately notify Seller if it is or becomes listed on any Excluded or Denied Party List of any agency or the U.S. Government or its export privileges are denied, suspended or revoked.
17. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.