

**ENTIRE AGREEMENT**

The parties agree that there are no understandings, agreements or representations, express or implied, not specified herein, respecting this offer or sale, and that this instrument contains the entire agreement between Seller and Buyer. No course of prior dealing and no usage of the trade shall be relevant to supplement or to explain terms used in this agreement.

**CONTROLLING TERMS**

All sales are expressly limited to, and the rights and liabilities of the parties shall be governed exclusively by, the terms and conditions herein. In the event any purchase order or offer from Buyer states terms additional to or different from those set forth herein, this document shall be deemed a notice of objection to such additional or different terms and a rejection thereof. Any acknowledgment or shipment of product by Seller to Buyer subsequent to Seller's receipt of a purchase order or offer from Buyer shall not be deemed to be an acceptance by Seller of an offer to contract on the basis of any Buyer's terms and conditions. Receipt and acceptance by Buyer of products shall be conclusive evidence of Buyer's acceptance of the terms and conditions set forth herein as the sole controlling terms and conditions of the contract between Seller and Buyer. Stenographic and clerical errors by Seller are subject to correction.

**ACCEPTANCE OF ORDERS**

Seller possesses the exclusive right to accept or refuse any and all orders. No bid, offer, or quotation shall be valid or binding upon Seller, and no order shall be accepted and no sale shall be final, until such bid, offer, quotation, order or sale shall be acknowledged in writing by Seller.

**PRICES**

All prices are subject to change without notice and shall be adjusted to the Seller's prices in effect on the date of shipment. Prices reflect standard packaging for domestic shipment only. **MINIMUM ORDER \$50.00.**

**DELIVERY**

Delivery dates are estimates and not a guaranty of a particular day of delivery and are based on the prompt receipt of all necessary information from the Buyer. Seller shall not be liable for failure or delay in shipping goods hereunder if such failure or delay is due to an act of God, fire, flood, war, labor difficulties, accident, strikes, lockouts, civil disorders, governmental priorities or embargoes, inability or difficulty in obtaining raw materials or supplies or any of the causes of any kind whatsoever beyond the reasonable control of the Seller, nor shall Buyer refuse to accept deliveries so delayed. Seller shall be compensated for any and all extra costs and expenses occasioned by delays attributable to the Buyer.

**TRANSPORTATION AND RISK OF LOSS**

Seller reserves the right to select the method and type of transportation. If a method of transportation other than that selected by Seller is requested by Buyer, excess packing, shipping and transportation charges resulting from compliance with Buyer's request shall be for the Buyer's account. All shipments are freight collect, F.O.B. point of shipment and risk of loss shall pass to Buyer after products are delivered to a carrier. Claims for damage or loss in transit must be filed by Buyer against the carrier.

**CANCELLATION OR MODIFICATION**

Buyer may not cancel or modify any order, either in whole or in part, without Seller's prior written consent and then only upon payment to Seller for all for all applicable costs incurred by Seller, including, without limitation, costs of purchased materials, and a reasonable allowance for profit. Order changes or additions received after original order has been processed will be treated as a new order.

**TAXES**

Any taxes which Seller may be required to pay or collect with respect to the sale, delivery or storage of the products, including taxes upon or measured by the receipts from the sales thereof, shall be for the account of Buyer who shall promptly pay the amount thereof to Seller upon demand, or in lieu thereof, furnish Seller with a tax exemption certificate acceptable to the taxing authorities.

**WARRANTY AND DISCLAIMER**

Seller warrants that its products and material shall be free from defects in material and workmanship under normal use and maintenance for a period of one (1) year from date of shipment; provided, however, for products shipped to equipment manufacturers for incorporation into their product for sale to third parties the foregoing warranty period will run one year from date initial power is applied to the equipment at the third party location but in no circumstance will the period of warranty exceed 18 months from date of shipment by Seller. On equipment and materials furnished by Seller but manufactured by others, Buyer shall accept in lieu of any liability or guarantees on the part of Seller, the benefits of guarantees as are obtained by Seller from such manufacturers or vendors. **SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT AS IS EXPRESSLY SET FORTH HEREIN.** Failure by Buyer to object to or reject products or materials delivered hereunder within 30 days from the date of shipment of the products or materials shall

constitute an acceptance and waiver by Buyer of all claims hereunder on account of alleged errors, shortages, defective workmanship or material, breach of warranty or otherwise.

#### **LIMITATION OF LIABILITY**

Buyer's exclusive remedy on any claim of any kind for any loss or damage arising out of, connected with, or resulting from this contract, or from the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, or repair or use of any products covered by or furnished under the contract, including but not limited to any claim for breach of warranty, negligence, strict liability or other tort, shall be the repair or replacement, F.O.B. factory, as Seller may elect, of the product or part thereof giving rise to such claim, except that Seller's liability for such repair or replacement shall in no event exceed the contract price allocable to the products or part thereof which give rise to the claim. **SELLER SHALL IN NO EVENT BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.**

#### **RETURN OF MATERIAL**

Seller's permission must be obtained in writing before any products are returned to it by Buyer. If products are returned without such permission, Buyer authorizes Seller, in addition to such other remedies as it may have, to hold the returned products at Buyer's sole risk and expense. All returns must be freight prepaid. Seller will in no event accept the return of any product that upon return is in the opinion of Seller altered, damaged, used, or in other than first class salable condition.

#### **PATENTS**

Subject to the conditions hereinafter stated, Seller shall defend any suit or proceeding brought against Buyer, insofar as said suit or proceeding is based upon the claim that any products furnished by Seller infringe any U.S. Letters Patent, and Seller shall pay any damages and costs based upon any such infringement, which are adjudicated and awarded against Buyer in any court of competent jurisdiction. In the event that such suit results in a holding that such products constitute such infringement and the use of said products is enjoined, Seller shall, at its own expense, and in its sole option, either procure for Buyer the right to continue using such products; replace said products with non-infringing products; or require the return of said products and refund the purchase price and transportation costs thereof. Buyer agrees, for the product delivered under an order, to indemnify, defend and hold harmless Seller from any claims, cost, expense or loss and any judgments or decrees resulting from infringement of patents or trademarks arising from or based upon Seller's compliance with Buyer's designs, specifications or instructions in the furnishing of such products to Buyer.

#### **STOPPAGE IN TRANSIT**

If Seller determines that Buyer's credit position has changed materially, prior to or during shipment, or at any time before acceptance of the goods by Buyer, then Seller may stop delivery of goods to the carrier or other bailees, or goods in the possession of a carrier or other bailee. Such action by Seller will not constitute a breach of this agreement with any resulting damages to Buyer.

#### **PAYMENT**

All invoices are due net 30 days from date of invoice. Payment not made when due shall bear interest at the rate of 1 1/2% per month or the maximum rate allowed by law until paid.

#### **GOVERNING LAW**

Any contract formed pursuant to this quotation shall be governed by and construed in accordance with the law of the State of South Carolina.