



## Terms and Conditions

1. These Terms and Conditions are the final expression of the agreement between the parties and shall be binding upon the parties hereto irrespective of any subsequent terms and conditions proffered by Buyer, unless such terms and conditions are expressly agreed to in writing and signed by both parties.
2. All products and goods are furnished in accordance with these terms and conditions of sale.
3. All invoices are Net and due payable 30 days from date of invoice at Arlington, Texas unless otherwise indicated on our acknowledgement and/or invoice.
4. Delivery is subject to Federal and State laws and regulations, fires, strikes, disputes with workmen, floods, accidents, embargoes, delays in transportation, shortage of cars, shortage of fuel, or other material, shortage of labor, riots, weather, pandemic, Acts of God, and any other causes beyond the Seller's control. Seller shall not be liable for damages incurred due to non-delivery or delay in delivery. The parties acknowledge that Seller is not the manufacturer of the product.
5. Quotations and sales are F.O.B. point of shipment and title to all properties sold shall pass upon delivery to buyer (at the point of shipment), unless otherwise expressly stated. In such stated cases and in the event of damage or loss in transit, Buyer must give immediate written notice to the carrier's agent at destination and to the Seller. Within five (5) days after receipt of goods, the Seller must be notified in writing of any claims for shortages, errors in shipment, errors in charges, or that the goods do not comport with the Purchase Order (a "Rejection Notice"). A Rejection Notice must specify in reasonable detail the alleged shortage, error, or non-conformity of the goods. In the absence of a timely and sufficiently detailed Rejection Notice, the goods are presumed to have been accepted by Buyer and to conform to the Purchase Order. Any goods identified in a Rejection Notice may be replaced or repaired by Seller, or Seller may contest the allegations in the Rejection Notice. Quotations and sales prices do not include any charges for special parking, special vehicles, handling, or marking directions of Buyer.
6. Any equipment or accessories that are not specifically listed in the item description are not included. Any field service such as start-up, training, commissioning or reviewing installations are not included unless specifically listed. Taxes, rigging and unloading are not included.
7. If the Buyer fails to timely pay for any order between the Buyer and the Seller, the Seller may defer further shipments until such payments are made or may cancel any or all unshipped orders. The Seller reserves the right to require from the Buyer at any time satisfactory security for performance of the Buyer's obligations under any order placed with Seller and refusal or failure to furnish such security will entitle the Seller to suspend shipment until such security is furnished or to cancel the order, or orders, or the unshipped portion thereof. Seller reserves a security interest in the material which is subject of the sale until payment in full is received and the Buyer agrees to do everything necessary to preserve and perfect such interest under applicable law.
8. Buyer acknowledges that the Seller is not the manufacturer of the products. Any warranties for the products, if any, will come from the manufacturer directly. As the use of the products is beyond Seller's control, SELLER EXPRESSLY DISCLAIMS RESPONSIBILITY FOR THEIR HANDLING, USE, STORAGE, RESULTS OBTAINED, OR ANY INJURY HOWEVER CAUSED, OR FOR ANY DIMENSIONS, MEASUREMENTS, LAYOUTS OR DESIGN UNLESS OTHERWISE AGREED BY SELLER IN WRITING. ALL GUARANTEES AND DIMENSIONAL DRAWINGS ARE THOSE OF THE MANUFACTURER.
9. Under some circumstances, Seller may act as manufacturer's agent with respect to resolving any warranty claims. ANY WARRANTY WITH RESPECT TO PRODUCTS IS VOID IF THE SERVICE CONDITIONS ARE NOT ACCURATELY AND COMPLETELY DISCLOSED TO THE SELLER. Unless the Manufacturer's warranty provides otherwise, Manufacturer's sole liability for any breach of contract or warranty is the replacement, F.O.B. point of manufacture, of such goods as proven defective within 12 months of equipment start-up or 18 months of date of delivery of material (whichever occurs first) or the allowance of credit therefore at Manufacturer's option when such goods are in the hands of the original Buyer and have not been misused, mishandled, or improperly installed. REPLACEMENT OR CREDIT SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY. THE PARTIES AGREE THAT ANY AND ALL OTHER LIABILITY OF SELLER OR MANUFACTURER IS DISCLAIMED. The Seller shall be notified promptly of any material claimed to be defective and such material shall be subject to inspection by the Manufacturer. Disposition of any warranty claims shall be solely the decision of the Manufacturer.
10. All sales are final and no return of material will be allowed, without Seller's prior written approval. If for any reason an order is cancelled, buyer shall be responsible for any and all non-refundable charges and costs incurred by Seller relating to said order up until date of cancellation.



11. If provided in the work order or agreement, Seller may install and assemble the product, including a seal kit. In such a case, Seller provides a warranty that the seal kit will be free of leaks for 24 hours after beginning use, and in the absence of any misuse or alteration by Buyer or any third-party. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE DISCLAIMED TO THE MAXIMUM AMOUNT ALLOWED BY APPLICABLE LAW. Seller's sole liability for any breach of warranty is the replacement of the seal kit.
12. Any taxes, excises, levies or charges which the Seller may be required to pay or collect under any existing or future law, upon or with respect to services and/or the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the materials covered herein shall be for the account of the Buyer and the quoted or otherwise applicable prices shall be increased thereby.
13. Failure of the Seller to enforce any of these Terms and Conditions or to exercise any right accruing through the default of the Buyer shall not affect or impair the Seller's rights in case such default continues or in case of any subsequent default of the Buyer and such failure shall not constitute a waiver of Seller's rights in regard to other or future defaults of the Buyer.
14. Buyer must promptly notify Seller in writing of any dispute, controversy or claim arising from or related to the sale of goods contemplated hereby (other than any dispute, controversy or claim as to payment(s) owed to Seller) or any alleged or threatened breach of any of these Terms and Conditions or any Purchase Order ("Dispute Notice") prior to submitting any dispute, controversy or claim to binding arbitration under Section 20 of these Terms and Conditions. Seller shall then have ninety (90) days from the date of receipt of the Dispute Notice to cure the alleged or threatened breach ("Cure Period"); provided however, that the Cure Period will be extended for such additional period of time as will be reasonably necessary if the alleged breach or threatened breach is incapable of remedy within the initial Cure Period. In the event that Buyer submits a dispute, controversy or claim arising from these Terms and Conditions to binding arbitration prior to sending a Dispute Notice to Seller, or prior to the expiration of the Cure Period, Seller shall be entitled to an abatement of such arbitration for no less than ninety (90) days in order to cure, and Buyer shall be liable for all costs and expenses (including reasonable attorneys' fees) incurred by Buyer in seeking such abatement. IN NO EVENT SHALL THE SELLER BE LIABLE FOR (1) ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY TYPE OR NATURE IN CONNECTION WITH THE BUYER'S PURCHASE AND USE OF THE GOODS HEREIN SOLD, WHETHER SAME ARISE OUT OF NEGLIGENCE, STRICT LIABILITY IN TORT, CONTRACT OR OTHERWISE, OR (2) FOR THE DESIGN OF ANY SYSTEM OF THE COMPONENTS THEREOF IN WHICH THE GOODS SOLD TO BUYER ARE INCORPORATED, OR OTHERWISE USED BY BUYER, EVEN THOUGH SELLER MAY GIVE INSTRUCTIONS OR ADVISE PURCHASER WITH RESPECT TO THE USE AND APPLICATION OF THE GOODS SOLD HEREUNDER, OR (3) FOR ANY DAMAGES OF ANY KIND WHATSOEVER FOR DELAY IN SHIPMENT OR NON-SHIPMENT OF ANY GOODS ORDERED HEREUNDER. No statement or recommendation made of assistance given by the Seller or its representatives in connection with the use of any products by the Buyer shall constitute a waiver by the Seller of any of the provisions herein or affect the Seller's liability, as herein defined.
15. There are no understandings or agreements, written or oral, between Buyer and the Seller relative hereto which are not fully expressed herein or in a written purchase order, and no change made herein shall be valid unless it is made in writing and signed by both parties.
16. The validity, interpretation or performance of this transaction as well as the rights and duties of the parties thereunder shall be interpreted and construed pursuant to and in accordance with the laws of the State of Texas. The parties agree that this agreement is performable in material part in Tarrant County, Texas.
17. Seller offers to sell the goods, materials, equipment or services described in strict accordance with the Terms and Conditions stated herein. Submittal of a purchase order by Buyer shall be deemed an acceptance of this offer, which offer and acceptance shall constitute a legally enforceable contract between Buyer and Seller once accepted by Seller's home office. Buyer agrees and acknowledges that Buyer has ten (10) days from the receipt of Seller's offer to accept such offer by the submittal of a purchase order to Seller (the "Offer Period"). Any acceptance by Buyer after the Offer Period shall not result in the formation of an enforceable contract between Buyer and Seller. Any additional or differing terms and conditions contained on Buyer's purchase order (whether or not such terms materially alter this offer) are hereby rejected by Seller and shall not become part of the contract between Buyer and Seller unless expressly consented to in writing by Seller. If the Terms and Conditions stated in a Buyer's order are inconsistent with the Terms and Conditions of Sale contained herein, these Terms and Conditions shall control.
18. Prices contained in the offer to sell are firm upon receipt of Buyer's written purchase order provided: (1) Buyer's purchase order is received by Seller within ten (10) days of the submission of the offer, (2) that within one (1) month or less after receipt of Buyer's purchase order approved submittal data shall be returned to seller, and (3) that within one (1) month after receipt of approved submittal data by Seller, Buyer authorizes Seller to release for fabrication (in accordance with approved submittal data) and shipment immediately upon completion of fabrication. In the event that Buyer's release for fabrication is not received by Seller within such (2) month period, prices are subject to increase to current prices in effect at the time Buyer's release is actually received by Seller. If Buyer delays shipment by Seller after release, prices are subject to increase equal to the percentage increase in Seller's price during such period of delay. All prices quoted by Seller are good for 10 days; however, all pricing is subject to change based on manufacturer price increases until products are released. All unreleased products are subject to the same price increase by percentage as any price increase by the manufacturer. Notwithstanding anything to



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the contrary herein, all orders are subject to approval and acceptance by Seller's Home Office and Seller's ability to obtain and allocate, necessary materials and containers.

19. ANY ACTION RESULTING FROM ANY BREACH ON THE PART OF THE SELLER AS TO THE GOODS SOLD HEREUNDER, MUST BE COMMENCED WITHIN ONE (1) YEAR AND A DAY AFTER THE CAUSE OF ACTION HAS OCCURRED OR THE GOODS ARE DELIVERED, WHICHEVER SHALL FIRST OCCUR.
20. The parties agree that any disputes relating to or arising from this agreement, the purchase and sale of the products, or the installation and assembly of the products, shall be resolved by binding arbitration in accordance with this paragraph. Arbitration shall be held in accordance with the Commercial Rules of the American Arbitration Association. Arbitration shall be held in Tarrant County, Texas (or as otherwise agreed by the parties). The prevailing party shall be entitled to recover its reasonable costs and expenses incurred in the dispute, including attorneys' fees and arbitration costs.
21. In the event that Seller provides any field assistance to Buyer and Buyer's representative, such technical assistance shall in no way render Seller liable for the installation of the goods sold hereunder and specifically, SELLER EXPRESSLY EXCLUDES ANY WARRANTY OF THE QUALITY AND WORKMANSHIP PERFORMED BY ANY PERSON OR ENTITY INSTALLING SELLER'S GOODS WHICH ARE THE SUBJECT HEREOF.