

EXCEPT AS OTHERWISE AGREED IN WRITING, THESE TERMS AND CONDITIONS GOVERN ALL SALES TO THE EXCLUSION OF OTHER TERMS AND CONDITIONS. OUR QUOTATIONS AND ESTIMATES ARE NOT OFFERS CAPABLE OF ACCEPTANCE BY YOU, AND ANY ORDER PLACED BY YOU WILL ONLY BE ACCEPTED BY OUR WRITTEN CONFIRMATION OF SUCH ORDER.

GENERAL PROVISIONS

- 1.1 The definition of terms used, interpretation of this agreement and rights of parties hereto shall be construed under and governed by the Uniform Commercial Code of the State of Maryland. "Seller" when used herein means B/A Products Company. "Purchaser" when used herein means the person or entity purchasing or receiving Goods and/or services from Seller. "Goods" means the equipment, products, articles, supplies or other property sold by Seller to Purchaser under an order. "Services" means the services provided by Seller to Purchaser under an order. "Contract" means the purchase order or purchase agreement between Seller and Purchaser for Goods and/or Services.
- 1.2 Seller's quotations and estimates are not offers and are subject to change or withdrawal without notice before an order is acknowledged by Seller. If Seller's proposal is deemed to constitute an offer, it may be accepted only on terms set forth in such proposal, including, without limitation, these Terms and Conditions. If Seller's proposal constitutes an acceptance of an offer, such acceptance is expressly conditioned on Purchaser's assent to the terms of such proposal, including, without limitation, these Terms and Conditions. An acceptance of any part of the Goods or Services covered hereunder shall be deemed to constitute such assent. Any additional and/or different terms and conditions proposed by Purchaser and/or any attempt by Purchaser to vary any of these terms and conditions shall be deemed a material alteration and is hereby objected to and rejected unless expressly agreed by Seller in writing. Only variations or modifications to the Contract made in writing and signed by Seller and Purchaser shall be enforceable.
- 1.3 Unless otherwise agreed by Seller in writing, Seller's prices are subject to change without advance notice at any time prior to order acknowledgment. Confirmations will be sent on all orders and it is the responsibility of the Purchaser to verify the agreed upon price. Every effort will be made to give advance notice of any price change. All sales are subject to increase without notification by the amount of any sales, excise or other tax or duty levied or charged by any governmental agency and are subject to any price adjustment necessitated by Seller's compliance with any government action. Minimum order amounts may be implemented and are subject to change without advance notice at any time.
- 1.4 Unless otherwise agreed by Seller in writing, Seller reserves the right to change or modify the design and construction of any product or to substitute material equal to or superior to that originally specified, without notice to the Purchaser.
- 1.5 Any action for breach of contract hereunder must be commenced within one year after the cause of action has accrued or they are waived. Any failure by Seller to enforce its rights under this Contract will not be deemed a waiver of such rights.
- 1.6 All disputes arising under or in connection with this Contract shall be resolved by (a) good-faith negotiations by knowledgeable, responsible representatives of each party who are fully authorized to settle any such dispute, or (b) in the event such negotiations do not resolve such dispute within a thirty (30) day period (or such longer period as the parties may agree), binding arbitration held in Chicago, Illinois, by a single arbitrator mutually agreed by the parties, conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Each party shall bear its own costs of these procedures; the parties shall equally split the fees of the arbitration and the arbitrator. Notwithstanding the above, either party shall have the right to seek a temporary restraining order or an injunction related to the purposes of this Contract, to compel compliance with confidentiality obligations, or to file suit to compel compliance with this dispute resolution process.
- 1.7 Purchaser may not assign, novate or otherwise transfer its rights or obligations under this Contract without Seller's prior written consent, and any attempt to do so shall be null and void and of no effect.

CANCELLATION

- 2.1 Purchaser cannot cancel Contracts under any circumstances without Purchaser first reaching an agreement in writing with Seller covering Seller's damages. Unless a cancellation schedule is agreed in the Contract, such agreement for cancellation charges must reimburse Seller for all expenses incurred, including, but not limited to, costs of purchased materials, labor costs, engineering costs, third-party service costs, and a reasonable mark-up to cover overhead and profit; cancellation charges shall be, at a minimum, at least 35% or agreed upon percentage of the purchase price of the Goods covered by the cancelled orders.

ENGINEERING CRITERIA

Some Goods furnished by Seller are complexed engineered products; accordingly, Purchaser undertakes:

- 3.1 That it has provided, and will promptly provide, all information reasonably necessary to enable Seller to evaluate the requirements for performance and that all such information is full and accurate;

- 3.2 That all premises, plant, engineering support, spare parts, connected work and machinery and inputs that Purchaser is required to provide for the design, engineering, installation, testing and use of the Goods are fit for their purpose and of good engineering quality;
 - 3.3 Fully to co-operate with Seller in the design, engineering, installation, testing and use of the Goods;
 - 3.4 To use the Goods for the intended purpose only and in accordance with the literature provided with the Goods by Seller; and
 - 3.5 Not to use or undertake any unapproved spare part, connected machinery, service, repair, modification or alteration, and agrees that any breach of these negative criteria will negate all specific and implied warranties, conditions and obligations on the part of Seller relating to the quality of the Goods.
- Purchaser further agrees that it will be liable to Seller for any costs, expenses and losses it suffers by reason of any breach of these undertakings.]

DRAWINGS, DESIGNS AND CONFIDENTIALITY

- 4.1 All of Seller's specifications, designs, drawings and indications of physical, chemical and electronic properties ("the Designs") are made in good faith and are approximate indications only and are not binding in detail unless Seller has agreed in writing to a particular Design upon which Purchaser has indicated it is relying; Seller shall be entitled to vary the same and/or to correct errors and omissions provided the Goods remain in substantial conformity with the contractual requirements.
- 4.2 The Designs and all other designs, drawings, know-how, technologies, proprietary information and other intellectual property concerning Seller's products or services (including all patents, copyright, design right, know-how, trade secret and other intellectual property in them) are and shall remain, as between the parties, the sole property of Seller. Purchaser is not entitled, licensed or authorized to make any use of the Designs or other intellectual property of Seller other than for the use of the Goods and/or Services as contemplated by this Contract.
- 4.3 Unless specifically agreed in writing otherwise, any inventions, modifications, improvements, techniques, know-how or intellectual property rights affecting Seller's products or services made or gained in the course of performing this Purchase Agreement shall belong to Seller absolutely.
- 4.4 Neither party shall disclose to third parties or use for its own purposes any confidential or proprietary information of the other party without the prior written consent of the other party.

SHIPMENT, PAYMENT AND CREDIT

- 5.1 Credit Terms of Payment: Purchaser is expected to make payment upon receipt of Goods or invoice, whichever is later. Payment will be made within the agreed upon stated terms (Net 30, Net 10, etc.). If invoiced amount is not paid in accordance to terms (or if no terms are specified, it becomes due and payable) the overdue amount could bear interest from the date due at a rate 3% compounded monthly. Seller reserves the right to withhold all future shipments if any payment is past due. At any time. Seller at their discretion can determine the the financial condition of Purchaser that does not justify continuance of shipment on the terms of payment specified. All payment shall be in USD.
- 5.2 Seller may, in its sole discretion, accept payment for Goods and Services by cash in advance or by money-down with scheduled progress payments.
- 5.3 If Purchaser fails to fulfill the terms of payment, or if at any time before payment in full is made (whether or not payment is yet due) a petition is presented or resolution passed for the winding up or bankruptcy of Purchaser, or in the event of the appointment of a receiver or administrator of Purchaser's business, Seller may defer further shipment or, at its option, cancel the unshipped balance. Seller reserves the right prior to making any shipments to require from Purchaser satisfactory security for performance of Purchaser's obligation. In the event of cancellation in accordance with the provisions hereof, or in the event of non-payment (in full or in part) for the Goods by the due date, Purchaser hereby irrevocably licenses Seller (insofar as it is able) to enter upon any premises to repossess the Goods. No failure of Seller to exercise any right accruing from any default of Purchase shall impair Seller's right in case of any shipment default of Purchaser.
- 5.4 Unless specifically agreed otherwise, all sales are [F.O.B. Seller's plant]. Seller may, in its discretion, select the carrier unless specified in advance by Purchaser. Title to the Goods shall transfer to Purchaser upon the earlier of full payment therefor and Seller's delivery of the Goods per the agreed delivery terms. Risk in the Goods shall transfer to Purchaser upon Seller's delivery of the Goods per the agreed delivery terms.
- 5.5 Orders that meet the requirements of Seller paid shipping, Purchaser assumes ownership and liability for Goods at time of shipment and Seller recognizes revenue for products shipped.
- 5.6 While expected dates of delivery of Goods are given in good faith, the same are not of the essence of or in any way terms of this Contract or representations

of fact. All shipping dates given are approximate, and while effort is made to maintain schedules, Seller will not be liable for damages on account of delay. In case of delay by Purchaser in furnishing complete schedules, materials or information, delivery dates may be extended for a reasonable time. Seller shall not be responsible for reasonable or excusable delays nor shall the Purchaser refuse to accept delivery because of any such delays. Excusable delays include, without limitation, delays resulting from accidents, fires, floods, severe weather or other acts of God, strike, lockout or other labor difficulties, embargoes, government controls or other forms of intervention, inability to obtain labor, materials or services and other causes beyond Seller's control. If there is a scarcity in any of its products or Goods, Seller will allocate its available supply in its sole discretion.

- 5.7 Purchaser shall inspect Goods within ten (10) business days after delivery of Goods and notify Seller in writing of any defects or any failure of the Goods. Purchaser is responsible for inspecting quantity and for damage prior to signing, all claims by Purchaser for shortages in a shipment of Goods or Goods damaged in transit must be made against the carrier. All claims by Purchaser against Seller for nonconforming Goods or Services and claims for shortages in a shipment or damaged Goods (other than claims to be made against the carrier) must be made in writing to Seller within ten (10) business days after receipt of shipment or Purchaser shall be deemed to have accepted such Goods and any claims for nonconforming Goods shall be waived.

DISCLAIMER OF WARRANTY

- 6.1 SELLER DOES NOT WARRANT THE MERCHANTABILITY OF ITS PRODUCTS AND DOES NOT WARRANT THE FITNESS OF THE PRODUCTS FOR A PARTICULAR PURPOSE. SELLER DOES NOT MAKE, AND HEREBY DISCLAIMS AND EXCLUDES, ANY WARRANTY, EXPRESS OR IMPLIED, OTHER THAN THE WARRANTY CONTAINED HEREIN OR OTHERWISE EXPRESSLY AGREED BY SELLER IN WRITING.

WARRANTY OF SELLER'S GOODS

- 7.1 Except as specifically agreed otherwise in this Contract, Seller warrants that Goods sold by Seller hereunder shall conform to specifications and shall be free from material defect in material and workmanship for a period of ninety (90) days from date of shipment (the "Warranty Period"). In the event of breach of such warranty, Seller's sole responsibility shall be to replace, at Seller's option, any nonconforming Goods. Such replacement parts shall be provided at no cost to Purchaser, at the business establishment of Seller during regular working hours. Seller's obligation under this warranty shall not include any cost of removal, installation, duty, taxes or any other charges whatsoever. Further, unless agreed otherwise by Seller, Goods alleged to be defective must be returned to Seller at Purchaser's expense; Seller will pay for freight expenses back to Purchaser upon confirmation that the defects are subject to warranty.
- 7.2 Seller shall be under no liability for breach of the warranty set forth herein for wearing and consumable parts or to the extent any damage or nonconformity is caused by: (i) improper installation, use, maintenance and/or service; (ii) modification or alteration by other than Seller; (iii) delays in notifying Seller of the alleged defect; (iv) equipment, component, materials or parts supplied by or on behalf of Purchaser.
- 7.3 If Purchaser informs Seller of a defect after the Warranty Period has expired, then Seller may, in its discretion, offer advice (free of charge) and repair or replacement of Goods or additional services at Purchaser's expense.
- 7.4 There are no third party beneficiaries of the warranty granted by Seller herein.

WARRANTY OF OTHER MANUFACTURER'S PRODUCTS

- 8.1 Except as expressly agreed by Seller otherwise, Seller makes no warranties or representations of any kind whatsoever, either expressed, implied or statutory on any component parts or accessories sold hereunder which are not manufactured by Seller. Seller hereby extends the manufacturer's warranty or guaranties, if any, given to Seller by the manufacturer of said component parts and accessories, but only to the extent Seller would be able to enforce such warranty or guaranties itself. Seller does not guaranty warranties of other manufacturers' products. Claims under any manufacturer's warranty shall be made in accordance with the manufacturer's requirements regarding the return, repair or replacement of the Goods. Seller agrees to cooperate with Purchaser in enforcing any claims against manufacturer(s) for defects that may occur.

INDEMNITY

- 9.1 Seller shall indemnify and hold Purchaser harmless from loss, claim, cost, expense or damage (including payment of reasonable attorneys' fees) suffered or incurred by Purchaser and arising from any injury, death or property damage but only to the extent caused by any defect in the design or manufacture of the Goods or any negligent act or omission in the performance of the Services, provided that Seller shall have no obligation to indemnify or hold Purchaser harmless to the extent any loss, claim, cost, expense or damage arises from or is caused by any specification, material, information or instruction provided by or on behalf of Purchaser.

- 9.2 Seller shall indemnify and hold Purchaser harmless from loss, claim, cost, expense or damage (including payment of reasonable attorneys' fees) suffered or incurred by Purchaser and arising from any claim of infringement of a third party's intellectual property rights but only to the extent caused by the Goods or Services (including the Designs) provided by Seller hereunder, provided that Seller shall have no obligation to indemnify or hold Purchaser harmless to the extent any loss, claim, cost, expense or damage arises from or is caused by any specification, material, information or instruction provided by or on behalf of Purchaser, by Purchaser's combination of the Goods and/or Services with materials not supplied by Seller or by Purchaser's use of the Goods and/or Services other than as instructed by Seller or contemplated by this Contract. In the event Seller reasonably deems any Goods or Services to infringe a third party's intellectual property rights, Seller may, in its sole discretion, either license Purchaser to use the infringing content or modify the Goods or Services so as not to infringe.

LIABILITY

- 10.1 Seller's total liability for any and all claims, damages, losses and injuries arising out of or relating to Seller's performance or breach of any term herein shall not exceed the price of the Goods and Services provided hereunder. IN NO EVENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL SELLER BE LIABLE FOR LIQUIDATED, INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EXPENSES OR COSTS, INCLUDING BUT NOT LIMITED TO: (1) LOSS OF PROFITS, BUSINESS OR GOODWILL; (2) LOSS OF USE OF EQUIPMENT OR FACILITIES; OR (3) LOSS RESULTING FROM UNUSABLE MACHINERY OR FACILITY DOWNTIME, HOWSOEVER CAUSED AND EVEN IF THE POTENTIAL FOR SUCH DAMAGES WAS DISCLOSED AND/OR KNOWN.

CONFLICTING LAW

- 11.1 Some jurisdictions provide rights in addition to those listed above, or do not allow the exclusion or limitation of implied warranties, or liability for incidental or consequential damages. If any provision or part of a provision of these terms is found to be illegal, invalid or unenforceable under any applicable law, such provision or part of a provision shall, insofar as it is severable from the remaining terms, be deemed omitted from these terms and shall in no way affect the legality, validity or enforceability of the remaining terms.

SPECIAL PROVISIONS

- 12.1 Individual orders that meet or exceed fifteen hundred dollars USD (\$1,500.00) and that are a US based shipments and orders that meet or exceed two thousand dollar USD (\$2,000.00) and are shipping to Canada or Mexico are subject to all or a portion of the shipping cost. All orders have a minimum dollar amount of \$50.00. Seller's covered shipping amounts are subject to change without advance notice at any time prior to order acknowledgment. Seller at their sole discretion selects the method of shipment. All drop ship orders are subject to a \$10.00 handling fee per order. Cost or surcharges not covered: overlength, liftgate requirements, detention @ delivery, notify before delivery, residential delivery charge, high cost delivery area, inside delivery, limited access, guaranteed deliveries or fuel surcharge. If any of these cost are determined, Purchaser will be invoiced.
- 12.2 Goods may not be returned without prior written permission, which may be withheld at Seller's sole discretion. All requested specials or non-standard Goods sales are final and will not be approved for return. Purchaser's request of returned Goods must include Seller's original invoice number, product older than 90 days will not be authorized. If Seller grants authorization, Purchaser will be issued return of Goods authorization number "RMA #". Purchaser has 30 days to return authorized Goods, the RMA # must identify the Goods being returned and visible on Goods, any product not properly identified will be returned to Purchaser at their cost. Upon receipt, Seller will inspect all Goods to determine original state and sellability, any product not meeting these requirements will not be issued credit and returned to Purchaser at their cost. Goods returned are subject up to a 25% restocking charge, it is at Seller's sole discretion on what restock charge will apply. Any Goods dropped shipped to Purchaser are subject to the supplier's terms and conditions of authorization and restocking fees.