

- 1. SCOPE OF STANDARD TERMS AND CONDITIONS.** These standard terms and conditions shall apply to any and all of SELLER's sales contracts. SELLER does not accept and shall not be bound by any terms or conditions of the BUYER, unless otherwise expressly agreed by both parties in writing.
- 2. WARRANTY.** "SELLER warrants that if any product of its manufacture upon examination is found by a SELLER's representative to be defective in either workmanship or material under normal use and service SELLER, at its option, will repair or replace same free of charge including lowest transportation charges but not cost of installation or removal or will refund the purchase price thereof, provided that SELLER receives written claim specifying the defect within ninety (90) days from date of distributor sales or one (1) year from date of factory shipment, whichever occurs first. In no event shall SELLER be liable for any claims, whether arising from breach of contract or warranty or claims of negligence or negligent manufacture, in excess of the purchase price. ALL OTHER WARRANTIES EXPRESSED AND IMPLIED INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR USE ARE HEREBY DISCLAIMED. The foregoing expresses all of SELLER's obligations and liabilities with respect to the quality of items furnished by it and it shall under no circumstances be liable for consequential, indirect, collateral or special losses or damages, unless otherwise prohibited under the governing law of these Standard Terms and Conditions."
- 3. ORDER ACCEPTANCE BY SELLER**
- a All orders received from BUYER are subject to acceptance by SELLER, unless quotation specifies that it is bid in response to an invitation for bids in which event the order or award shall constitute acceptance of the bid in accordance with the bid terms.
  - b Terms and conditions on the BUYER'S order form, at variance with terms and conditions stated herein, are binding upon SELLER only if specifically accepted by SELLER in writing.
  - c Orders accepted by SELLER cannot be cancelled by BUYER except with SELLER'S written consent and upon terms that will indemnify SELLER against loss.
- 4. QUANTITY VARIANCES.** SELLER reserves the right to ship and BUYER agrees to accept an under-or-over-run of any quantity up to and including 10%.
- 5. SAMPLES.** In the event samples are furnished BUYER, SELLER will not assume any liability in connection with the furnishing or use thereof and there will be no agreement of warranty collateral to, affecting, the furnishing of such samples.
- 6. PRICE AND PAYMENT**
- a Unless otherwise stated herein, the payment shall be made in cash by the BUYER to the SELLER's designated account before delivery, and any payment terms other than the above shall be subject to separate written approval by the SELLER.. The shipping term shall be EX WORKS Suzhou Factory, as defined under the INCOTERMS as amended.
  - b Taxes Not Included in Price: Except where otherwise prohibited by law, all business, sales, VAT or other taxes or charges by the national or local government, which SELLER may be required to pay or collect, shall be in addition to price stated and shall be paid by BUYER, unless valid exemption certificate is furnished therefore.
  - c Payments Where Shipments are Delayed: Where BUYER requests delay in shipment, SELLER shall have the option of billing for goods when ready for shipment. If material is not ordered out within sixty (60) days after goods are ready, SELLER will have the option of billing storage charges.
  - d Delay in Payment: Where BUYER fails to pay the purchase price in accordance with the invoice, SELLER may, without prejudice to the rights that it has under the law for breach of contract by the BUYER, (i) suspend or cancel any further deliveries of the products until and unless such payment has been made; (ii) claim interest on the delayed payment from the due date until the date of receipt of the BUYER's payment, which interest shall be 12% per annum.
- 7. DELIVERY**
- a Shipping Dates: Shipping dates are approximate only and subject to change.
  - b Unforeseen Delays: SELLER shall not be liable in damages or otherwise for delays or failure in performance when caused by circumstances, of every nature and description and however arising, beyond SELLER'S reasonable control. In the event that SELLER is unable due to any such occurrence or otherwise, to fulfill its total commitments to all customers, BUYER agrees to accept, as full and complete performance by SELLER, deliveries in accordance with such plan or proration as SELLER may adopt.
  - c. Packaging: SELLER will provide commercial packaging adequate, under normal conditions, to protect the goods in shipment and identify the contents. Should BUYER request any special packaging, it will be done at BUYER'S expense.
  - d Routing: All goods will be shipped via the cheapest or most expeditious means of transportation under the circumstances, unless BUYER indicates otherwise. If BUYER provides no routing instructions, SELLER shall be the sole judge of the best method of routing shipment.
- e Claims:** Claims for loss or damage in transit must be entered and prosecuted by the BUYER.
- 8. SPECIAL TOOLING.** All special tooling required to produce the goods shall remain the property of SELLER unless specific arrangements are otherwise made. In any case, SELLER'S responsibility is limited to proper design, proper handling in manufacture and storage, and adequate insurance. The BUYER is responsible for costs resulting from: (1) alterations requested by him, (2) major repairs or replacement caused by normal wear, (3) additional costs incurred when new factors are introduced such as shorter lead time and/or increased rate delivery.
- The term "Special Tooling" shall include such items as molds, dies, forms, jigs, mandrels, fixture and other special equipment, except machinery which is required to produce the goods.
- 9. INSPECTION.** SELLER will inspect all goods prior to shipment and such inspection will be adequate to meet SELLER'S standards for dimensional and visual characteristics.
- 10. REJECTIONS AND RETURNS**
- a **Notification to SELLER:** BUYER will be deemed to have inspected and accepted any shipment under this contract, within thirty days after BUYER'S receipt of goods, BUYER has not notified SELLER in writing that such goods are rejected and the grounds therefore.
  - b **Return of Goods:** No goods may be returned by BUYER for any reason without SELLER'S prior written approval.
- 11. SPECIAL DAMAGES.** Neither BUYER nor SELLER shall make any claims for special, indirect or consequential damages.
- 12. PATENT INFRINGEMENT**
- a Should the goods furnished by SELLER be of such a nature that the design therefore is supplied by BUYER, or should the goods be labeled or marked with a trademark or trade name requested by BUYER, then BUYER agrees to defend SELLER in any action, either civil or criminal, brought against SELLER by any third party, for the infringement or misuse of any such patents or trademarks, and BUYER further agrees to hold SELLER harmless from any damage or loss resulting there from.
  - b As to any of the goods manufactured according to a design or specification not furnished by BUYER, SELLER shall indemnify and save harmless BUYER from any claim that any use or resale of the same in and of itself infringes any U.S. patent or patent right if the BUYER within thirty (30) days notifies SELLER in writing of any such claim and gives SELLER authority, information and assistance (at SELLER'S expense) to dispose of such claim and to defend any suit that may be brought against the BUYER or BUYER'S customer thereon. In that event SELLER will, at its expense, defend any such suit and satisfy any judgment therein to an amount not exceeding the price paid SELLER for said goods held to infringe. If, any such suit, an injunction is issued against the further use of said item or any part thereof, SELLER will at its option and expense, either procure for the customer the right to continue using said goods, or replace the same with non-infringing goods, or modify them so that they become non-infringing, or remove said goods and refund the purchase price and transportation and installation costs thereof. SELLER shall not be liable in any respect except as aforesaid, including without limitation, for any claim of infringement settled by BUYER without SELLER'S consent. The foregoing expresses all of SELLER'S obligations and liabilities as to patents.
- 13. INTELLECTUAL PROPERTY RIGHTS**
- All intellectual property rights in the products as well as any other documentation connected thereto shall remain vested in the SELLER unless otherwise agreed by both parties in writing. The BUYER shall not, either directly or indirectly, in the PRC or abroad, produce or manufacture the same or similar products in which the SELLER or any of its affiliate owns any intellectual property rights.
- 14. GENERAL PROVISIONS**
- a **Modifications of Contract:** It is agreed that there is no other contract in force between BUYER and SELLER and no alteration shall be binding unless agreed to in writing by SELLER. Should SELLER by any words, acts or writing, waive or be deemed to have waived any of the provisions of this agreement, or should SELLER fail to insist upon performance by BUYER of one or more of the terms herein, such action on SELLER'S part will in no way be deemed to imply or constitute a waiver of any other terms contained in this agreement.
  - b **Compliance with Laws:** SELLER certifies compliance with all relevant national and local laws of the PRC..
- 15. DISPUTE RESOLUTION**
- This agreement is governed by the laws and regulations of the People's Republic of China. Any dispute arising out of or in connection with this agreement shall be settled by the court at the venue where SELLER is located.