

INTERNATIONAL MOTION SUPPLY, LLC
TERMS AND CONDITIONS

1. The terms and conditions set forth below and on the face side hereof constitute a complete and exclusive statement of the agreement between buyer and seller. All representations, promises, warranties, or statements by an agent or employee of seller that differ in any way from the terms and conditions hereof shall be given no force or effect, no modifications or additions thereto shall be binding upon seller unless expressly consented to in writing. Any conflicting warranty terms and conditions in the purchase order or any other buyer's document are specifically rejected by the seller. No course of prior dealing or usage of trade shall supplement or explain any term used in this agreement.

2. **PRICE.** Prices quoted are valid for 30 days from the quoted date. For production orders that are accepted within the quoted 30 days the pricing for the active production order will be valid for 12 months. (1) Pricing adjustments will be looked at the end of 15 months or (2) if a production order is completed and the buyer wants to issue a new order or (3) if material costs rise 20% or higher the seller and buyer will negotiate a new price or (4) if buyer requests design or material modifications the seller and buyer will negotiate a new price.

3. **TOOL CHARGES.** Any tool charges hereof are to cover partial cost of the necessary tools and fixtures required for the Goods purchased hereunder. Such tools and fixtures are to be and to remain the sole property of the Seller. There will be no additional charge for upkeep or replacement of such tools and fixtures. Terms for tools, fixtures and step-up charges are -- Net 30

4. **WARRANTY.** Seller warrants Goods manufactured by it will be free of material defects and will conform and function consistent with the appropriate Seller specification(s) for a period of 1 year from the shipping date. If any of the Goods are found by Seller to be defective, such Goods will, at Seller's option, be replaced or repaired at Seller's cost. No defective goods are to be returned without written authorization of seller. The sole purpose of the stipulated exclusive remedy shall be to provide the Buyer with free repair and replacement of defective Goods in the manner provided herein. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as the Seller is willing and able to repair or replace defective Goods in the prescribed manner. The foregoing warranty is in lieu of all other warranties, express or implied, including those of merchantability or fitness for any purpose not expressly set forth herein. No affirmation of Seller, by words or action, other than as set forth in this Section shall constitute a warranty. Seller's warranty does not apply to any Goods which have been subjected to misuse, mishandling, misapplication, neglect (including but not limited to improper maintenance), accident, improper installation, modification (including by not limited to use of unauthorized parts or attachments), or adjustment or repair performed by anyone other than Seller or one of Seller's authorized agents. When returning products to Seller packaging must be adequate or all warranty is null and void.

Any claim by Buyer with reference to the Goods sold hereunder shall be deemed waived by the Buyer unless submitted in writing to seller within the earlier of (I) thirty (30) days following the date Buyer discovered or by reasonable inspection should have discovered, any claimed breach of foregoing warranty, or (ii) 12 months following the date of shipment. Any cause of action for breach of the foregoing warranty shall be brought within one year from the date the alleged breach was discovered or should have been discovered, whichever occurs first.

5. **LIMITATION OF LIABILITY.** Seller's liability (whether under the theories of breach of contract or warranty, negligence, or strict liability) for its Goods shall be limited to repairing or replacing Goods found by Seller to be defective, or at Seller's option, to refunding the purchase price of such Goods or parts thereof.

6. **DISCLAIMER OF CONSEQUENTIAL DAMAGES.** In no event shall seller be liable for consequential damages arising out of or in connection with this agreement, including without limitation, breach of any obligation imposed on seller hereunder. Consequential damages shall include without limitation, loss of use, income or profit, or loss sustained as the result of injury (including death) to any person, or loss of or damage to property (including without limitation property handled or processed by the use of the goods). Buyer shall indemnify seller against all liability, cost or expense which may be sustained by seller on account of any such loss, damage, or injury.

7. **ACCEPTANCE AND TRANSPORTATION.** Upon buyer's receipt of shipment, Buyer shall immediately inspect the Goods. Unless Buyer provides Seller with written notice of any claim for shortage, overcharge, or damage of

Goods within ten (10) days from invoice date, such Goods shall be deemed finally inspected, checked and accepted by Buyer and no allowances shall be made thereafter. In absence of shipping and packaging instructions, Seller shall use its own discretion in the choice of carrier and method of packing. Seller shall not be responsible for insuring shipments unless specifically requested by Buyer and any insurance or special packaging so requested shall be at Buyer's expense and valuation.

8. **TITLE AND RISK OF LOSS.** Title to any Goods sold and risk of loss of such Goods passes to Buyer upon delivery by Seller to carrier and any claims for losses or damages shall be made by Buyer directly with carrier.

9. **DELAYS.** Unless expressly specified to the contrary, Goods in stock will be shipped within 48 hours, and Goods not in stock will be shipped according to Seller's production schedule. However, all shipping dates are approximate, and are based upon current availability of materials, present production schedules, and prompt receipt of all necessary information. Seller will not be liable for any damage, loss, fault, or expense arising out of delays in shipment or other nonperformance of this Agreement caused by or imposed by: (1) strikes, fires, disasters, wars, riots, acts of god; (2) acts of Buyer; (3) shortages of fuel, labor, power, materials, supplies, transportation, or manufacturing facilities; (4) governmental action; (5) sub-contractor delay; or (6) any other cause or condition beyond Seller's reasonable control. In the event of any such delay or nonperformance, Seller may, at its option, and without liability, cancel all or any portion of this Agreement and/or extend any date upon which any performance hereunder is due.

10. **TERMINATION AND CANCELLATION.** Orders cannot be terminated, or modified, or shipment deferred after acceptance of Buyer's order by Seller, except with Seller's written consent. In the event of cancellation or termination by Buyer of this order before completion thereof, other than breach thereof by Seller, Buyer shall pay to Seller promptly upon receipt of invoice from Seller:

- (a) Contract price for all products which shall have been completed prior to notice of termination
- (b) All actual costs made or incurred by Seller in connection with the uncompleted portion of the order. Such costs shall include labor, overhead and costs of materials in process or purchased for processing the order, and which materials shall belong to the Buyer.
- (c) Cancellation charges that the seller occurs from vendors and commitments made under the order.
- (d) In the event a tooling charge is prorated over the cost of the order, balance of tooling charge not so prorated on previous shipments shall be billed as a cancellation charge.

11. **ORDER CHANGES.** Orders will be subject to a price increase or holding charge unless different terms are agreed in writing by the seller if:

- (a) 15% of any new purchase order is not scheduled within the first 150 day period or 15% of the order is not scheduled quarterly thereafter
- (b) An active order is placed on hold and not rescheduled within 60 days

12. **GENERAL CONDITIONS**

A. In addition to the rights and remedies conferred upon Seller by law, Seller shall not be required to proceed with the performance of any order or contract if the Buyer is in default in the performance of any order or contract with Seller, and in case of doubt as to Buyer's financial responsibility, shipments under this order may be suspended or sent sight draft with bill of lading attached by Seller.

B. No delay or omission by Seller in exercising any right or remedy provided for herein shall constitute a waiver of such right or remedy and shall not be constituted as a bar to or a waiver of any such right or remedy on any future occasion.

C. The sale of Goods pursuant to this order shall be governed by the laws of the State of Minnesota. Seller agrees to comply with all applicable laws of the United States.

13. **SEVERABILITY.** The invalidity or unenforceability of any one or more phrases, sentences, or sections shall not affect the validity or enforceability of the remaining portions of this Agreement.