

SCHUTTE & KOERTING (“BUYER”) STANDARD TERMS AND CONDITIONS OF PURCHASE

1. **GOVERNING TERMS:** These terms and conditions and those stated in Seller's request for quotation, inquiry or Purchase Order (hereinafter, "these Terms") shall exclusively govern the transaction(s) of sale of goods and services between Buyer and Seller. Notice of objection to any different or additional terms proposed by Seller is hereby given and acceptance of Buyer's Purchase Order or counteroffer is expressly limited to these Terms, unless modified in writing by an officer of Buyer. Commencement of performance by either party shall not waive Buyer's objections and shall be deemed to be under these Terms.
2. **PRICES, PERMITS AND TAXES:** Prices in Seller's proposal or quotation shall be deemed firm and valid for 60 days and when accepted by Buyer's Purchase Order, shall be firm through the later of shipping or payment date. Buyer shall obtain any labor or work permits required. All prices submitted to Buyer shall separately state any and all taxes, duties or government fees to be paid by Buyer. If exemption from any tax, duty, fee or permit is claimed, Seller shall promptly furnish Buyer with satisfactory proof of exemption and shall indemnify Seller against any cost or expense, including attorneys' fees, incurred as a result thereof.
3. **SHIPMENT:** Shipments shall be F.O.B. destination point and Seller assumes all risk of loss or damage to goods and delay in transit. Seller shall immediately remedy any shortage, loss or damage in transit with goods of like kind and quality and accelerate production of same if not in stock at no additional charge to Buyer. In the absence of specific instructions, Seller shall not ship any goods of like kind and quality and accelerate production of same if not in stock at no additional charge to Buyer. In the absence of specific instructions, Seller shall not ship any goods prior to the specific shipping date. Seller shall be responsible for the accuracy of shipping weights, and for selection of a reputable common carrier, which Buyer reserves the right to approve.
4. **TIME FOR DELIVERY:** Time is of the essence and all shipping and delivery dates or schedules stated by Buyer are contractual requirements. SELLER SHALL BE LIABLE FOR ANY AND ALL DAMAGES CAUSED TO BUYER ARISING OUT OF ANY DELAY IN DELIVERY OF GOODS OR SERVICES. The cost to Buyer of acceleration required or requested to meet delivery dates due to delay caused by Seller or its vendors shall be borne by Seller.
5. **SELLER INSPECTION AND TESTS:** Seller shall perform standard inspection and test procedures and any others noted in the Purchase Order or applicable specifications before delivery, giving Buyer at least ten (10) advance days notice of any test Buyer desires to attend. Buyer will pay Seller the reasonable cost only of any additional inspections or tests which Buyer requires Seller to perform. Seller shall be liable for payment of charges for Buyer's representative due to any delay, repetition or cancellation of testing or inspection caused by Seller.
6. **BUYER INSPECTION AND ACCEPTANCE:** Buyer will inform Seller if the products are non-conforming, defective or short in any respect; provided, however, that failure to so inform Seller or any use or installation of the products by Buyer shall not constitute a waiver of any right of rejection, deviation from contract requirements or claim of shortage.
7. **PAYMENT TERMS:** Payment shall be made based upon agreed to terms with Schutte & Koerting or upon the most favorable discounted terms which Seller offers to any other customer, which Seller is hereby obligated to offer to Buyer. Buyer reserves the right to set-off and may make deductions from payments due to Seller for any defective goods or any damages of any type claimed by Buyer under this or any other contract between Buyer and Seller. Retainage in the amount required by Seller's contract with the purchaser of its product may be required and paid when Seller has received payment from its purchaser.
8. **CHANGES:** Buyer reserves the right to make minor changes in material or designs without additional cost. Any design, specification, or other change requested by Seller shall be made only as agreed to in writing by Buyer.
9. **BUYER-FURNISHED PROPERTY:** If Buyer furnishes components, castings or other materials, patterns or tools, Seller shall independently verify that they are free from defects and within specifications, including quantity, condition, metallurgical alloy, hardness, machineability and dimensionality. Seller shall immediately inform Buyer if defects are found in Buyer-furnished property prior to incurring any additional expense. Seller shall repair minor defects without additional charge. Seller shall be responsible for loss or damage to Buyer-furnished property after delivery to Seller. Buyer's sole liability shall be limited to replacement or repair of Buyer-furnished property.
10. **PRODUCT STANDARDS:** Products of Seller's design and original manufacture will comply with applicable federal government occupational safety, health and sanitation standards, any specified environmental conditions, and if the place of end use is specified with any state or local laws, codes, rules or regulations. When Seller's products are specifically used as a component of a larger installation, Seller shall be responsible for all precautions and protections to insure the safety of persons, property and the environment.
11. **A. WARRANTY:** Seller warrants that products, parts and components of its manufacture or design shall comply in every respect with Seller's requirements of merchantable quality at the time of shipment, be fit for their intended purpose, free from defects in material, workmanship and fabrication for a period of eighteen (18) months from the date of shipment, or such longer time as Seller is required to warrant its products to its customer. On orders for repair or refurbishment, this warranty extends to all labor and parts or components supplied to or made by Seller. **B. NON-EXCLUSIVE REMEDY:** Buyer's remedy and Seller's obligations under this warranty includes, but shall not be limited to, repair or replacement by Seller of the products, components or parts proving defective or damaged, or receipt of credit in lieu of repair or replacement issued at Buyer's sole option. Seller shall be responsible for the cost of removal or reinstallation of products for inspection, replacement or repair as well as incidental, delay, special or consequential damages and any charges or liability incurred by Buyer as a result of Seller's non-conforming products.
12. **FIELD SERVICE:** A. Seller shall furnish all supervision, labor, materials, tools or utilities required for work on the equipment and shall be responsible for the adequacy and performance of the work. B. Buyer shall indemnify and hold Seller harmless from any claims arising out of field service. C. Work by Seller on used equipment will be performed in a workmanlike manner considering its condition, age, design, exposure to wear, and damage. D. Seller shall provide to Buyer a report concerning the work performed, condition of the equipment or any related matter, to assist Buyer and confirm that Seller has examined all aspects, details and conditions of the job site, equipment, installation or other item.
13. **REPAIR AND REFURBISHMENT ORDERS:** Seller shall repair or refurbish equipment, parts or components so as to conform to as-new assembly, performance, conditions, and tolerances except as expressly excluded by Seller. On repair and refurbishment orders, Seller shall have the obligation and responsibility for inspection or performance of any work, replacement or repair beyond that which is specified by Seller to meet as-new assembly condition.
14. **DEFERRED DELIVERY:** Buyer may defer delivery beyond the projected shipment date without the written consent of Seller and at no additional cost.
15. **PROPRIETARY RIGHTS:** Seller warrants that all designs, configurations, drawings, specifications, means and methods of manufacture or fabrication, technical data or engineering information supplied to Buyer by Seller are the sole and exclusive property of Seller and Buyer shall indemnify, defend and hold Buyer harmless from and against any loss, damage or expense incurred by any breach of this warranty of claim of infringement by others. Buyer reserves all proprietary and intellectual property rights in any changes, modifications or improvements to products of Buyer's design or specification. Any transfer of proprietary rights of Seller must be made in writing, executed by an officer of Seller.
16. **CANCELLATION:** Orders may not be cancelled or terminated by Seller without the written consent of Buyer. Buyer may cancel this order without cost or liability if Buyer's order to sell products to others is cancelled. Other cancellations by Buyer are subject to payment or reimbursement only of Seller's actual documented out-of-pocket costs and expenses.
17. **WAIVER:** No waiver by Buyer of any breach of these Terms shall constitute a waiver of any other breach or of such provision. Seller's failure to object to provisions contained in any communication from Buyer shall not be deemed an acceptance of such provisions or a waiver of these Terms.
18. **LIABILITY:** Seller's liability to Buyer on any claim or cause of action of any kind in contract, tort or otherwise, for any losses, costs, damages, expense, statutory violation, fine or penalty, loss of use, non-performance, exercise of cover or any breach or fault by Seller whatsoever, shall not be limited in any fashion. Seller shall be liable for any special, incidental or consequential damages, including without limitation, the cost of removal or reinstallation of Seller's products.
19. **DISPUTES:** At the sole and exclusive election of Buyer, any claim or controversy arising out of or relating to the transaction(s) between Seller and Buyer shall be settled by arbitration administered by the American Arbitration Association ("AAA") or, on international orders, by the International Chamber of Commerce Court of Arbitration, and judgment on the award rendered by the arbitrator(s) may be entered by any court of competent jurisdiction. The arbitrator(s) shall be entitled to award the charges of the arbitrator(s) and the AAA to the prevailing party. Exclusive venue shall be Philadelphia, Pennsylvania for any domestic arbitration and Bucks County, Pennsylvania for any court proceedings and Seller waives any defenses or objections to venue and jurisdiction in Pennsylvania.
20. **GOVERNING LAW:** These Terms and the transaction between Buyer and Seller shall be governed, interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to its conflict of laws rule.
21. **ATTORNEYS' FEES:** Buyer shall be entitled to recover its reasonable attorneys' fees incurred in connection with collection of all or a portion of any liability of Seller under these terms.