



Terms and Conditions of Sale

The Quotation and any resulting sale is conditional on the terms and conditions set forth below. Any additional or different terms or conditions submitted by Purchaser shall be deemed objected to by the Company and shall be of no effect nor in any circumstance binding upon the Company unless accepted by the Company in writing. If Purchaser objects to any of the terms and conditions, said objection must be specifically brought to the attention of the Company by Purchaser by a written instrument separate from any purchase order or other printed form of Purchaser. Said objections shall be deemed proposals for different terms and conditions and may be accepted only by a writing executed by an authorized representative of the Company.

1. **PRICES:** Prices quoted on products manufactured by the Company are firm for 30 days from quotation date provided shipment can be made within one year from date of order. If shipment is delayed beyond one year, the Company reserves the right to invoice prices in effect at the time of shipment.

2. **DELIVERY:** Delivery of products ordered hereunder shall be made FOB shipping point unless otherwise expressly indicated in a writing signed by the Company. Unless, at the time of Purchaser's acceptance of the Company's quotation, Purchaser specifies in writing a desired method of transportation (air express, motor freight, etc.), Company will use its judgment in selecting the carrier and route. Shipping dates are estimated and Company assumes no responsibility for delays.

Purchaser may delay delivery of any items, provided, however, if such delay is in excess of 60 days from the scheduled date of delivery. Company may invoice Purchaser for said items and hold them at Purchaser's risk and expense pending instructions from Purchaser. In the event such delay extends beyond six (6) months from said delivery date, then Purchaser agrees to pay prices in effect at the time of shipment.

3. **PAYMENTS:** Terms are net cash 30 days from date of invoice. Pro-rata payments, if applicable, shall become due as shipments are made.

For each calendar month, or fraction thereof, that payment is late, Buyer shall pay a late payment charge computed at the rate of 1.5% per month on the overdue balance, or the maximum rate permitted by law, whichever is less. If in the judgment of the Company, the financial credit of the Purchaser at any time does not justify continuance of production or shipment of any products based on the payment terms herein specified, the Company may require full or partial payment prior to completion of production or shipment.

4. **SALES AND SIMILAR TAXES:** The prices provided for herein are exclusive of any present or future Federal, State, Municipal, or other sales or use tax with respect to the material or products covered hereby, or any other present or future excise tax upon, or measured by, the gross receipts from this transaction or any allocated portion thereof or by the gross value of the material or products covered hereby and of any present or future property tax or similar charge with respect to the material or products covered hereby. If the Company is required by applicable law or regulation to pay or collect any such tax or taxes on account of this transaction of the material or products or services covered hereby, then such amount of tax shall be paid by the Purchaser in addition to the prices herein provided for.

5. **EXPORT REGULATIONS:** Purchaser acknowledges that if the items purchased hereunder are to be exported, they are subject to the U.S. Commerce and/or State Department Export Regulations. Purchaser accepts full responsibility for and agrees to comply fully with such regulations, including, but not limited to, obtaining export licenses and re-export permission unless otherwise agreed by Company.

6. **WARRANTY:** Company makes NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE, AND NO OTHER EXPRESSED OR IMPLIED WARRANTIES which extend beyond the description contained in the applicable specification. The Company warrants that the products manufactured by it shall be free from defects in material, workmanship, and title, and shall be made in accordance with the specifications, when approved in writing by the Company and the Purchaser. If any item manufactured by the Company shall not comply with the applicable specifications, or shall prove defective in material and/or workmanship, within one year from the date of shipment, Purchaser shall notify Company, in writing, of such defect or non-compliance. Company shall, at its option, modify, repair, replace, or refund the purchase price of said item. Company shall have the option to have such item returned to it, FOB its factory, or to make such adjustment at the point of installation. Company shall accept no responsibility if such items has been improperly stored, installed, used, or maintained, or if Purchaser has permitted any unauthorized modifications, adjustments, and/or repairs to the item. Adjustments for items not manufactured by the Company shall be provided by the standard warranty, if any, of the manufacturer or supplier thereof. Notwithstanding any breach of contract or negligence on the part of the Company, the foregoing constitutes the sole obligation of the Company, and the sole remedy of the Purchaser.

7. **PATENTS:** The Company shall defend any suit or proceeding brought against the Purchaser so far as based on a claim that any item furnished hereunder constitutes an infringement of any United States Patent, if notified promptly in writing and given authority, information, and assistance (at the Company's expense) for the defense of same, and the Company shall pay all damages and costs awarded therein against the Purchaser. In case the item is in such suit held to constitute infringement, and the use thereof enjoined, the Company shall, at its own expense, and at its option, either procure for the Purchaser the right to continue using said item, or replace same with a non-infringing item, or modify it so it becomes non-infringing, or remove said item and refund the purchase price. The Company does not assume this responsibility when the item is furnished in accordance with designs supplied by the Purchaser. The foregoing obligation of the Company applies solely to the equipment operating alone as a separate unit. Company will have no responsibility when this item combined with other items results in infringement by virtue of the combination.

8. **INTELLECTUAL PROPERTY OWNERSHIP:** Company shall own all right, title and interest in IP originated by Company. Purchaser shall own all right, title and interest in IP solely originated by Purchaser. Joint IP, which is defined as all jointly developed Intellectual Property wherein Company and Purchaser and/or their Consultants both made substantial contributions to its development, shall be jointly owned by Company and Purchaser, each to have an equal and undivided interest therein except as otherwise provided in separate Agreements. Neither Party shall use, either directly or indirectly, Joint IP in making, having made, procuring, selling and/or distributing Product(s) or components to or from a competitor of the other Party without prior written consent from the other Party. The Parties agree that, in the case where the Joint IP is: (a) an invention that will be protected by one or more patents, both parties will be listed as the joint assignees on each patent application filed; (b) a copyrighted work, the work was intended to be jointly owned and that each party intended its contributions to such work to be merged into inseparable or interdependent parts of a unitary whole.

9. **CONFIDENTIAL INFORMATION:** Purchaser will hold in confidence and not further disclose information concerning business affairs of Company which is identified as being confidential or proprietary including, without limitation, quotations and any cost element details of the quotations, prices for products and/or services, list of vendors, trade secrets, know how, and information concerning the design or methods of manufacturing the goods or any other information. Purchaser will provide reasonable protection against disclosure.

10. **DISCLAIMER OF DAMAGES:** COMPANY SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGE UNDER ANY CIRCUMSTANCES including, but not limited to, damage or loss resulting from inability to use the product, increased operating costs, loss of production, loss of

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anticipated profits, or other special, incidental, or consequential damages, whether similar or dissimilar, or any nature arising from any cause whatsoever, including negligence.

11. **LIMITATION OF LIABILITY:** Company's maximum liability hereunder, arising from any cause whatsoever, including, but not limited to, breach of contract or gross negligence, shall in no circumstance exceed the price of the product and/or service which gives rise to the claim. Secondary processes including, but not limited to coatings, are performed on a "best effort" basis and Company shall not be held responsible for any risk or loss associated with the Purchaser supplied materials. Any aforementioned cause of action must be commenced within one year from the date on which action accrues.

12. **OCCUPATIONAL SAFETY & HEALTH ACT:** Company makes every effort to design products in accordance with applicable national consensus standards and codes. However, due to lack of Occupational Safety and Health Administration action relative to product standards test procedures, and interpretations needed to ensure compliance with the general standards promulgated under the Act, Company cannot warrant compliance with same. Compliance with standards promulgated under the Act for any given application, installation, use, and maintenance is the sole responsibility of the Purchaser, for which the Company assumes no responsibility or liability. Company will quote on any specific modification.

13. **FLSA:** Company specifically represents that all products will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.

14. **NON-DISCRIMINATION:** The non-discrimination provisions of Executive Order 11246 and all applicable Federal regulations issued thereunder are incorporated herein by reference.

15. **GOVERNMENT REGULATIONS:** In the event that Purchaser desires to incorporate any government regulations regarding the purchase of the products, it shall specify with particularity any such regulation on the face of its order. Such requests shall not become a part of this order unless specifically agreed to by Company in writing.

16. **EXPORT CONTROL:** Any technical data related to a defense article covered by the U.S. Munitions List, is subject to export control under the International Traffic In Arms Regulations (ITAR) (Title 22, Code of Federal Regulation, Parts 120-130); and any technical data related to dual-use commercial articles, articles governed by the Export Administration Regulations (EAR) (Title 15, Code of Federal Regulations, Parts 730-774) requires a non-disclosure statement prior to export. Purchaser will not disclose, export or transfer such data in any manner to any foreign person or any foreign country without the prior written approval of the U.S. Department of State, Directorate of Defense Trade Controls, and/or U.S. Department of Commerce, Bureau of Industry and Security, as required by the U.S. Government regulations. Purchaser is advised that failure to adhere to U.S. export control regulations may be subject to disciplinary action available by law.

17. **NUCLEAR LIMITATION OF USE:** The products supplied hereunder are not for use in or with any nuclear facility unless specifically so stated in the Company's quotation. If the Company's quotation does expressly acknowledge that the equipment is to be used in or with a nuclear facility, Company's "Special Nuclear Conditions" shall control. Purchaser accepts the responsibility for insuring that the products purchased hereunder are not used in violation of this limitation and Purchaser shall indemnify and hold Company harmless of any and all liability (including such liability resulting from the Company's negligence) arising out of said improper use.

18. **TOOLING:** Payment of tooling charges convey to Purchaser title to the tooling. Company will maintain tooling, provided there is no change in the Purchaser's specifications or design provided, however, the Company reserves the right to discard tooling without liability on its part if no orders are received within a period of two years. Company shall not be responsible for insuring Purchaser's tooling, and will not be liable in the event of its loss through casualty or otherwise.

19. **PERFORMANCE:** The Company's performance shall be subject to any and all prohibitions, restrictions, regulations, or priorities of the Federal or any state government or any subdivision or agency thereof and Company shall not be liable for any failure to perform, in whole or in part caused by any such prohibition, restriction, regulation, or priority or by fires, floods, strikes, work stoppages, accidents, casualties, inability to procure supplies and raw materials, delays in transportation, or other causes beyond the Company's control.

20. **INSURANCE:** Company shall maintain comprehensive general liability insurance policies to protect the Company's liability and Workmen's Compensation protection for the Company's employees. However, the Company shall not accept any contractual liability indemnity.

21. **CHANGES:** Purchaser may, prior to delivery, make changes in the specifications of the product or the quantity ordered, provided however, any such change shall be subject to written acceptance by the Company. Change orders issued by customer may result in additional charges both for review of the change order and the implementation of requested change in design or quantity. Purchaser agrees to pay any additional cost and/or escalation cost occasioned by such change order, and the Company reserves the right to modify or revoke its warranty if it deems that said change will affect the performance of the product. Company shall advise the Purchaser of new delivery date necessitated by any such change.

22. **TERMINATION BY PURCHASER:** Purchaser may at any time prior to delivery terminate this order in whole, or in part, for Purchaser's convenience upon written notice to the Company, in which event the Company shall be entitled to a reasonable termination charge consisting of a percentage of the contract price reflecting the percentage of work performed prior to receipt of Purchaser's written notice of termination plus actual cost resulting from termination. Customer agrees to be financially responsible for components, supplies and raw materials that Concurrent must purchase to meet Customer's forecast within supplier lead times and for excess and obsolete items which were not used as a result of Customer's decision to terminate the program and/or the business relationship before the inventory was consumed. Liability shall include PO cost plus material overhead, freight and re-inspection/ packaging/ redelivery costs (if any).

23. **TERMINATION FOR CONVENIENCE:** The Company may terminate this purchase order at any time by written notice to Purchaser with no liability.

24. **FORCE MAJEURE:** If the Purchaser is unable by reason of Force Majeure (including but not limited to acts of God, actions by any governmental authority, fires, floods, windstorms, explosions, riots, natural disasters, wars, sabotage or labor problems) to carry out the obligations of an Order resulting from this Quotation, Parties will mutually agree to a recovery plan to fulfill the Order with no longer than ninety (90) day delay to original delivery.

25. **INSPECTION:** Purchaser shall have the right to inspect the products, when practicable during manufacture. Notwithstanding any such inspection, Purchaser shall inspect the products within a reasonable time of delivery, but in no event shall such reasonable time extend beyond 45 days from Purchaser's receipt of products.

26. **ASSIGNMENT:** Neither Company nor Purchaser shall have the right to assign any right or interest in Company's quotation or any resulting contract, unless such assignment is in connection with the transfer of all, or substantially all, of the assignor's business.

27. **OWNERSHIP:** Specifications, drawings, manufacturing data, and other information transmitted between Company and Purchaser in connection with the Company's quotation and resulting sale are the property of the originating party, and are disclosed in confidence on the condition that they are not to be reproduced, copied, or used for any purpose detrimental to the interest of the other.

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28. GOVERNING LAW: The rights and obligations of the Company and the Purchaser with respect to the Company's quotation and any resulting contract shall be governed by the laws of the State of Florida.

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