

# **SWISS-TECH, LLC**

## **CUSTOMER COPY**

### **ACKNOWLEDGMENT OF ORDER TERMS & CONDITIONS**

#### **I Controlling Provisions.**

Swiss-Tech, LLC ("Seller") acknowledges the order of the addressee of this Acknowledgment ("Buyer") and agrees to sell the products described herein ("Products") on the following terms and conditions which shall take precedence over and represent the final agreement between Buyer and Seller, notwithstanding any inconsistent, contradictory or other and further conditions in Buyer's purchase order or other document furnished by Buyer in connection with its purchase of the Products whether such document or documents are exchanged simultaneously within Acknowledgment or prior or subsequent thereto.

#### **2. Terms and Prices.**

(a) Terms of payment on all orders are subject to the approval of Seller's credit department and, unless otherwise stated, are net 30 days from the date of invoice without regard to the date of delivery of Products. Buyer agrees to pay a later payment charge of 1 1/2% per month for all amounts not paid in full within 30 days from the date of the invoice.

(b) Prices and deliveries are FOB Wisconsin unless otherwise stated and the risk of loss shall pass to Buyer upon delivery to the carrier.

(c) Buyer shall pay directly to the appropriate government authority all sales, use or any other local, state or federal taxes which arise from the sale or delivery of the Products or the execution of any contract of sale and will reimburse Seller for any such payment made by Seller.

(d) Prices stated are based on Seller's standard packaging. Seller reserves the right of packaging the goods in pallets, bulk or individual cartons. Packaging will be standard commercial package and acceptable to commercial carrier. Special customer packaging will be furnished only when specified and so stated herein, and the cost thereof shall be borne by Buyer.

(e) Notwithstanding any other provisions of this Acknowledgment, the prices of any Products are subject to increase by Seller to reflect increased costs of labor, raw materials, component parts, overhead and other expenses.

#### **3. Shipping Date and Delivery.**

(a) Buyer's receipt of any Products delivered by Seller shall be an unqualified acceptance of, and a waiver by Buyer of any and all claims with respect to such Products on the earliest to occur of (i) payment for the Products or (ii) failure of Seller to receive notice of shortages or defects in the Products within 15 business days of their delivery to Buyer.

(b) The shipping date and delivery of the Products are subject to adjustment due to any priorities or allocations necessitated by governmental orders or regulations and the time and manner of delivery is subject to adjustment due to any delay on the part of Buyer in supplying necessary data, or any changes therein at Buyer's insistence, and to delays caused by any cause beyond Seller's reasonable control. Delay in delivery for any of the aforementioned causes shall extend the term of delivery hereunder by a period equal to the length of such delay. Seller shall be compensated for any and all extra costs and expenses occasioned by delays attributable to Buyer.

(c) EVERY EFFORT WILL BE MADE TO FILL ORDERS WITHIN THE TIME STATED, BUT UNDER NO CIRCUMSTANCES WILL SELLER BE RESPONSIBLE FOR OR BUYER ENTITLED TO SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR OWING TO ANY DELAYS IN DELIVERY WHATEVER.

#### 4. Cancellations, Changes or Alterations.

(a) Orders placed cannot be cancelled or altered nor can deferred deliveries or Products completed or in process be extended beyond original specified delivery dates, except with Seller's consent and upon terms which will indemnify Seller against loss.

(b) Products returned without permission will not be accepted for credit and will be returned to Buyer F.O.B. Seller's plant.

(c) The delivery schedule of an order cannot normally be extended more than six months beyond the date of the first scheduled delivery. If Buyer requests an extension of the delivery schedule beyond the date of the first scheduled delivery, Seller reserves the right to increase the price or ordered Products or to substitute other products in place of the Products.

(d) Any claim based on the receipt of damaged Products must be filed with the carrier which delivered the Products. Seller will not allow credit for the return of damaged Products.

(e) Seller will not accept the return of any Products unless Buyer obtains Seller's prior written authorization. Seller may, at its option, accept other returned Products subject to a 15% charge for inspection and repackaging.

#### 5. Warranty.

(a) Seller warrants the Products herein described comply with the drawings and specifications supplied by Buyer on its Purchase Order as acknowledged by Seller. This warranty is void in cases of damage in transit, negligence, abuse, abnormal usage, misuse, accidents or improper maintenance. THERE IS NO OTHER EXPRESS WARRANTY. SELLER HEREBY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE INDICATED BY BUYER TO SELLER. There are no representations as to the capacity or performance of the Products sold hereunder except as set forth in the quotation specifications, if any, and such representations are expressly conditioned upon the correctness of the data furnished by Buyer and upon the Products being properly installed and maintained.

(b) Seller's sole obligation under this warranty shall be, upon prompt written notice by Buyer of any defect or defects and inspection, if required, by Seller, to repair or replace FOB Seller's plant or, at Seller's option, allow credit for any defective part or parts expressly warranted herein against defects by Seller. IT IS EXPRESSLY AGREED THAT THIS REMEDY OF REPAIR, REPLACEMENT OR CREDIT, AT SELLER'S OPTION, IS BUYER'S EXCLUSIVE REMEDY UNDER THIS WARRANTY. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES.

(c) For equipment furnished by Seller, but manufactured by others, the written warranty of the manufacturer, if any, will be assigned to Buyer to the extent possible. However, Seller does not adopt, and does not guarantee or represent that manufacturer will permit such assignment or comply with any of the terms of the warranty of such manufacturer.

(d) Expenses incurred by Buyer in repairing or replacing any defective product will not be allowed except by written permission of Seller

(e) Seller, in its manufacture and sale of these Products, will assume no liability as to possible infringement of patents by virtue of the use of said Products in combination with other elements or structures.

#### 6. Entire Agreement.

The parties agree that there are no understandings, agreements or representations, express or implied, set specified herein or in Seller's quotation, and that these instruments contain the entire agreement between Seller and Buyer, and that, consequently, no course of prior dealings and no usage of the trade shall be relevant to supplement or explain any of the terms used in this Acknowledgment.

#### 7. Governing Law.

This contract will be construed according to the laws of the State of Wisconsin.