

Dage Corporation

Terms and Conditions of Sale

1. **GENERAL:** The quotation and proposal including any technical data contained therein, is furnished solely for the exclusive use of the Purchaser and on the condition that the information contained therein will be not distributed to any other party by the Purchaser. Furthermore, the Seller hereby reserves the right not to disclose to the Purchaser any technical data developed exclusively at the Seller's expense, either in conjunction with the proposed work or with any prior contact. References herein to Manufacturer shall be to the producer of the product ordered hereunder. Except as maybe expressly provided to the contrary in writing the provisions of this contract shall be for the benefit of the parties hereto, and not for any other persons.
2. **PRICES:** The prices quoted, unless otherwise stated, are in U.S. currency, EXW factory address. Refer to the proposal for other price terms.
3. **TAXES:** Any tax, duty, or other government charge now or hereafter levied upon the sale, use or shipment of material and equipment ordered or sold is not included in Seller's price and will be charged to and paid for by the Purchaser. If delivery is to be made to an address in New York or Connecticut, Purchaser shall supply Seller with a tax-exempt certificate for any purchases for resale.
4. **SHIPPING CHARGES:** All shipping charges are Purchaser's responsibility.
5. **TERMS OF PAYMENT: As stated on Invoice.**

If shipment is delayed at the request of Purchaser, the date of completion shall be regarded as the date when reported ready for shipment and payments shall be made accordingly. The equipment shall be held at Purchaser's risk and Purchaser agrees to pay for storage and handling charges.

6. **DELIVERY:** Seller shall make all reasonable efforts to ship by the dates specified; however, Seller or its suppliers shall not be liable for any delay or failure in the estimated delivery or shipment of material and equipment or for any damages suffered by reason hereof. Specifically time shall not be considered of essence for the order. Shipping dates shall be extended for delays due to Acts of God, Acts of Buyer, Acts of Government, fires, floods, accidents, strikes, riot, war, embargo, lack of fuel, machine breakdown, transportation shortages, delay or default on the part of its vendors, or any other cause, whether of the same class or kind, beyond its reasonable control. In the event Seller is unable wholly or partially to perform because of any cause beyond its control, including the Manufacturer's failure to deliver, Seller may terminate the order without liability to Buyer.
7. **TITLE:** Title to the equipment shall pass to the Purchaser at the time of actual delivery of the equipment to the carrier EXW point of shipment.
8. **RISK OF LOSS OR DAMAGE:** Risk of loss of, or damage to, the furnished equipment, or any other portion thereof, from any cause whatever shall pass to the Purchaser upon delivery of the equipment or any portion thereof, to the carrier EXW point of shipment.

Seller shall not be responsible for loss or damage, including loss or damage in transit, when the risk lies with Seller, unless the delivered equipment is checked against the bill of lading and Seller's shipping list immediately upon arrival and any claims are promptly reported in writing within ten (10) days of receipt of goods.

9. **WARRANTY:** Seller furnishes only the Manufacturer's warranty for material or workmanship defects.

This warranty will apply providing the goods are properly stored, maintained and installed.

In addition, Seller assumes no responsibility for goods returned without Seller's written authorization.

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OTHER WARRANTIES, EXCEPT THAT OF TITLE, WHETHER WRITTEN, ORAL OR IMPLIED, IN FACT OR IN LAW (INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).

10. **PATENTS:** Seller shall defend at its own expense any suit or action brought against Purchaser based on a claim that the equipment or any part hereof, furnished hereunder, constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance for the defense of same, and Seller shall pay all damages and costs awarded therein against Purchaser. In case the furnished equipment or any part thereof is held to constitute an infringement and its use is enjoined, Seller shall, at its own expense; either procure for Purchaser the right to continuing use of the equipment, or modify it so it becomes non-infringing, or replace it with non-infringing equipment, or as a last resort, remove said equipment or any part thereof and refund the price of the equipment or the part.
11. **TERMINATION:** Purchaser may terminate this order, in whole or in part, by payment of reasonable charges based upon expenses already incurred, including Seller's commitments, termination charges, and a reasonable profit thereon. Seller assumes no responsibility for cost of reprourement by Purchaser.
12. **INSPECTION:** Inspections and/or tests to be witnessed by Purchaser or its designated Representative(s) shall be specified at time of order placement. If no inspections are specified, Seller may instruct Manufacturer to proceed with tests and/or shipment in accordance with Seller's standard practices. Seller does not assume costs for disassembly for inspection purposes should the Purchaser's inspector not arrive within the specified testing time.
13. **DRAWINGS AND TOOLS:** Drawings, if shown, shall be supplied to Manufacturer's standards. Charges for tools or engineering do not convey ownership to Purchaser.
14. **LAWS, PERMITS, REGULATIONS AND CODES:** Non U.S. laws, permits, regulations and codes shall not apply unless specifically agreed to in writing.

The laws of the State of New York, in the United States of America, shall apply to this order.

15. **DISPUTES:** Any dispute, claim or controversy arising out of this Agreement or transaction, or interpretation or breach thereof, shall be referred to arbitration under the Rules of the American Arbitration Association at a neutral location to be mutually agreed upon, or failing such agreement, in New York City. The award of the arbitrator or arbitrators may be entered in any court having jurisdiction. The arbitrator or arbitrators shall be bound by the terms of written agreements between the parties.
16. **LIMITATION OF LIABILITY:** In no event shall Seller or its suppliers be liable to Purchaser or any third party in contract, tort (including negligence), warranty or otherwise for any special, indirect, incidental or consequential damages. Seller's liability will be limited to repair, replacement or issuance of a credit for the purchase price at the Seller's and Manufacturer's option. Purchaser agrees to indemnify Seller for all costs in connection with such claims. The remedies of Purchaser set forth in this order shall be exclusive.
17. **ACCEPTANCE:** Acceptance of this offer is expressly limited to the exact terms contained herein. If Purchaser's order form is used for acceptance of this order it is expressly understood and agreed that the terms and conditions of such order form shall not apply unless agreed to by the Seller in writing.
18. **REEXPORT:** Purchaser agrees that it will not reexport, resell, ship or divert, directly or indirectly, any product or technical data furnished hereunder to any country for which the U.S. government or agency thereof at the time of export or reexport requires an export license or other governmental approval without first obtaining such license or approval.