

TERMS AND CONDITIONS

1. **Acceptance, Governing Provisions and Cancellation.** This writing constitutes an offer by Curtis Industries ("Seller") to sell the products and/or services described herein in accordance with these terms and conditions and is expressly conditioned upon assent to these terms. Buyer will be deemed to have assented to these terms and conditions unless Seller receives written notice of any objection within 5 days of the date buyer receives the goods. Approval of a sample or initial shipment by buyer constitutes an agreement that the particular item or part is satisfactory for buyer's application. No additional or different specifications will be binding upon Seller unless specifically agreed to in writing, failure of Seller to object to provisions contained in any purchase order or other communication from a buyer shall not be construed as a waiver of these terms and conditions nor an acceptance of any such provisions. This contract and these terms and conditions shall constitute the entire agreement between Seller and buyer, and shall be governed by and shall be construed according to the internal laws of the State of Wisconsin. No order accepted by Seller may be cancelled or altered by the buyer except upon terms and conditions acceptable to Seller, as evidenced by Seller's written consent. In the event of such an approved cancellation by buyer, Seller shall be entitled to payment for all finished and in-process goods, as well as any costs incurred in the preparation of buyer's order to the date of cancellation.
2. **Delivery, Claims and Delays.** Delivery of products to a carrier at Seller's plant or other loading point shall constitute delivery to buyer; and regardless of shipping terms or freight payment, all risk of loss or damage in transit shall be borne by buyer. Seller reserves the right to make delivery in installments, unless otherwise expressly stipulated herein, all such installments to be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve buyer of his obligations to accept remaining deliveries.

Claims for shortages or other errors in delivery must be made in writing to Seller within 10 days after receipt of shipment and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by buyer. Claims for loss or damage to goods in transit should be made to the carrier and not to Seller.

Seller shall not be liable for any damage as a result of any delay due to any cause beyond Seller's reasonable control, including, without limitation, an act of God, act of the buyer, embargo or other government act, regulation or request, fire, accident, strike, slowdown, a war, riot, delay in transportation, inability to obtain necessary labor, materials, or manufacturing facilities.

3. **Changes.** Seller may at any time make such changes in design and construction of products as shall constitute an improvement in the judgment of Seller. Seller may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority or non availability of materials from suppliers.
4. **Taxes and Other Charges.** Any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Seller and the buyer shall be paid by the buyer in addition to the prices quoted or invoiced. In the event the Seller is required to pay any such tax, fee or charge, the buyer shall reimburse Seller therefore; or, in lieu of such payment, the buyer shall provide Seller at the time the order is submitted with an exemption certificate or other document acceptable to the authority imposing the same.
5. **Warranties.** Seller warrants products manufactured by it and supplied hereunder to be free from defects in materials and workmanship for a period of twelve months from date of shipment. If within such period any such products shall be proved to Seller's satisfaction to be defective, such products shall be repaired or replaced at Seller's option. Seller's obligation and buyer's exclusive remedy hereunder shall be limited to such repair and replacement and shall be conditioned upon Seller's receiving written notice of any alleged defect within 10 days after its discovery and, at Seller's option, return of such products to Seller, f.o.b. its factory.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES (EXCEPT OF TITLE) INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE. Seller shall not be subject to any other obligations or liabilities whatsoever with respect to products manufactured or furnished by it, or any undertakings, acts or omissions relating thereto.

6. **Returns.** Goods may be returned to Seller only when Seller's written permission shall be obtained by buyer in advance, and goods may not be returned unless they are in marketable condition. Returned goods must be securely packaged to reach Seller without damage, and any cost incurred by Seller to put goods in marketable condition will be charged to buyer. Goods returned for credit that meet all the specifications of buyer's purchase order shall be subject to a minimum handling charge of 10%.
7. **Patents.** Seller will, at its own expense, defend any suits that may be instituted by anyone against buyer for alleged infringement of any patent relating to any products furnished by Seller hereunder, if such alleged infringement consists of the use of such products, or parts thereof, in buyer's business for any of the purposes for which the same were sold, and provided buyer shall have made all payments then due hereunder and shall give to Seller immediate notice in writing of the institution of any such suit and transmit to Seller immediately upon receipt all processes and papers served upon buyer and permit Seller through its counsel, either in the name of the buyer or in the name of the Seller, to defend the same and give all needed information, assistance and authority to enable Seller to do so. In case of a final award of damages in such suit Seller will pay such award but will not be responsible for any compromise made without its written consent.

The foregoing states the entire liability of Seller for patent infringement; and in no event shall Seller be liable if the infringement is based on the use of the product for a purpose other than that for which sold by Seller. As to any goods furnished by Seller to buyer manufactured in accordance with designs proposed by buyer, buyer shall indemnify Seller against any award made against Seller for any patent, trademark or copyright infringements.

8. **Consequential Damages; Indemnity.** SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR CONTINGENT DAMAGES WHATSOEVER.

The buyer shall indemnify the Seller against any and all losses, damages and expenses (including attorneys' fees and other costs of defending any action) that it may sustain or incur as a result of any claim of negligence, breach of implied warranty or strict liability in tort by the buyer, its successors and assigns and its customers whether direct or indirect, in connection with the use of goods furnished hereunder, including, without limitation, such as may be caused by the negligence of the Seller.