

## Terms and Conditions of Sale

### Acceptance

The Seller's acceptance of any order is expressly subject to Buyer's assent to each and all of the terms and conditions set forth below. Any additional or different terms and conditions submitted by Buyer shall be deemed objected to by Seller and shall be of no effect nor in any circumstances binding upon Seller unless accepted by Seller in writing. If Buyer objects to any of site terms and conditions said objections must be specifically brought to the attention of Seller by Buyer by a written instrument separate from any purchase order or other printed form of Buyer. 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 Seller at its offices in Cleveland, Ohio, U.S.A.

### Prices & Transportation

Seller's published prices, terms of payment, including discounts, and transportation terms shall apply.

### Taxes

Liability for all present or future Federal, State, Municipal or other sales, property, use or excise taxes, license fees or other fees imposed by or payable to any governmental authority, including any department, agency or subdivision thereof, upon the production, sale, shipment and/or use of the equipment, material or services covered hereby shall be assumed and paid for by Buyer and Buyer shall indemnify the Seller against any such liability. Applicable sales and/or use taxes will be billed by the Seller unless suitable exemption certificate is furnished by Buyer at time of placing order.

### Delivery

Delivery of the equipment and material shall be made F.O.B. shipping point, and title and risk of loss of the equipment and material shall pass to Buyer at F.O.B. shipping point, unless otherwise expressly indicated in a writing signed by Seller. Unless buyer specifies in writing the desired method of transportation (air express, motor freight, etc.), within a reasonable period of time before the date scheduled for shipment, Seller will use its judgment in selecting the carrier and route. Delivery schedules are estimated, and Seller assumes no responsibility for delays. If Buyer delays delivery of any items, Seller may invoice Buyer for said items, and hold them at Buyer's risk and expense pending instructions from Buyer.

## Terms of Payment

Invoices shall be due and payable within thirty (30) days of the invoice date. Payments not made within thirty (30) days are subject to a finance charge of 1-1/2% of the outstanding balance each month or part thereof until paid.

## Financial Responsibility of Buyer

If at any time before shipment the financial responsibility of Buyer becomes impaired, or unsatisfactory to the Seller, cash payment or satisfactory security may be required by the Seller before shipment. Buyer will cooperate with the Seller in complying with any applicable conditional sale or security law and will furnish the Seller such other assurances, including financing statements, as the Seller may reasonably request. If Buyer shall fail to make payments in accordance with the terms herein specified, Seller, in addition to its other rights and remedies, may at its option terminate shipment. In the event of bankruptcy or insolvency of Buyer, or in the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, the Seller shall be entitled to cancel any order then outstanding and shall receive reasonable and proper cancellation charges.

## Cancellations, Returns & Changes

Orders may not be cancelled by the Buyer without the prior written consent of the Seller. Equipment and material may not be returned by the Buyer without the prior written consent of the Seller. Cancellation and restocking charges will be assessed to the Buyer where applicable. Buyer may, at any time, request a change in (a) the specifications, including drawings and data; (b) method of packing and shipment; (c) date for performance. If such changes would result in increased costs or time to complete the performance of the contract, Seller shall submit a proposal identifying the price and schedule for which the change can be implemented. Buyer may accept said proposal at any time within the acceptance period specified therein, and the contract shall be modified accordingly.

## Warranty

The Seller expressly warrants that equipment and material manufactured by it will be free from defects in material and workmanship at the date of shipment. This Warranty is exclusive and is offered in LIEU OF ALL IMPLIED OR STATUTORY WARRANTIES (INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) or any other express or implied warranties or representations. All claims under this Warranty must be made in writing and delivered to the Seller prior to the expiration of one (1) year from the date of shipment from the factory or be barred. Upon receipt of a timely claim, the Seller shall inspect the item or items claimed to be defective, and Seller shall, at its option, modify, repair or

replace, free of charge, any item or items which the Seller determines to have been defective as the time of shipment from the factory, excluding normal wear and tear. Inspection may be performed at the Seller's plant, and in such event, freight for returning items to the plant for inspection than be paid by Buyer. Seller shall have no responsibility if such item has been improperly stored, installed, operated, maintained, modified and/or repaired by an organization other than the Seller. Adjustments for items of equipment and material not manufactured by Seller shall be made to the extent of any warranty of the manufacturer or supplier thereof. The foregoing shall be Seller's sole and exclusive liability and buyer's sole and exclusive remedy for any breach of warranty or for any other claim based on any defect in, or non-performance of, the equipment and material, whether based on breach of contract or in tort, including negligence or strict liability.

#### Disclaimer of Damages

Notwithstanding any other provision of the contract, in no event shall the Seller or its subcontractors or suppliers be liable, whether arising under contract, tort (including negligence), strict liability or otherwise, for loss of anticipated profits, claims of Buyer's customers, cost of money, loss of use of capital or revenue, cost of substitute products, or for any special, incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever.

#### Assignment

Neither Seller nor Buyer shall have the right to assign any right or interest in any contract between Seller and Buyer unless such assignment is in connection with the transfer of all or substantially all of the assignor's business, or upon written consent of the other party.

#### Tender

In the event of failure or refusal of Buyer to accept delivery, no physical tender of the equipment and material by the Seller shall be necessary, but written notice of the Seller's readiness and willingness so deliver any quantity of the equipment or material as any time specified shall be equivalent to physical tender thereof.

### Proprietary Data

Unless otherwise specifically agreed in a writing signed by an authorized officer of the Seller, neither buyer nor any representative of Buyer, nor any other person, than be entitled to, or have control over, any engineering or production prints, drawings or technical data which the Seller, in its sole discretion, may consider so be, in whole or in part, proprietary. Any such prints, drawings, data and other information transmitted to Buyer in connection with any order are the property of Seller 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 Seller.

### Assistance

Seller may, but than have no obligation to furnish Buyer with recommendations, engineering and technical information and advice and other assistance. All such assistance is furnished without charge solely as an accommodation to Buyer and the Seller shall have no liability for inaccurate, incomplete or faulty recommendations, information, advice and assistance, whether or not negligent.

### Labor Standards

The Seller represents and warrants that all equipment, material and services will be manufactured or furnished by the Seller in accordance with all applicable standards, provisions, and stipulations of the Fair Labor Standards Act of 1938, the Waish-Healey Act, the Work Hours Act, and Section 202 of Executive Order No. 11246 as to nondiscrimination in employment, and any amendments thereto.

### Force Majeure

The Seller shall not be liable for any expense, loss or damage resulting from delay or prevention of performance caused by fires, floods, acts of God, strikes, labor disputes, labor shortages, lack of or reasonable inability to obtain materials, fuel, supplies, or other equipment, riots, thefts, accidents, transportation delays, acts or failure to act of government or Buyer, delay in obtaining licenses or required permits, unusually severe weather, or any other cause whatsoever, whether similar or dissimilar so those enumerated above, beyond the reasonable control of the Seller. In the event of any delay arising by reason of the foregoing, the time for performance shall be extended by a period of time equal to the time lost by reason of such delay.

#### Non-Waiver

No failure of seller so insist upon strict compliance of Buyer to any of these terms and conditions or to promptly exercise any right accruing from any default of buyer than impair Seller's rights in case Buyer's default continues or in case of any subsequent default by Buyer.

#### Governing Law

The rights and obligations of Seller and Buyer with respect to any contract between Seller and Buyer shall be governed by the laws of the State of Ohio.

#### Terms & Conditions of Sale Export Sale Addendum Taxes

Liability for all present or future taxes, license or other fees imposed by or payable to any country other than the U.S.A., including any department, agency or subdivision thereof, upon the production, sale, shipment and/or use of equipment, material or services shall be assumed and paid for by Buyer and Buyer shall indemnify the Seller against any such liability.

#### Terms of Payment

Payment is to be made in U.S. dollars by establishment of an irrevocable Letter of Credit confirmed by a major U.S. bank payable at sight in favor of Meriam Instrument Division of The Scott Fetzer Company. The Letter of Credit for the total contract value shall be provided at the time of order placement. All banking charges shall be borne by the Buyer.

#### Governmental Limitations & Licenses

This contract is subject in part to applicable governmental laws, regulations and rules of the Government of the United States, including departments, agencies and subdivisions thereof, and of the country in which the equipment, material and/or services to be sold will be installed, used, or performed. Should any governmental authority prohibit the performance of this contract, in whole or in part, or if the exportation or importation of the equipment and material which are the subject of this contract be precluded because of the inability, within a reasonable time, to obtain an export or import license therefore, as appropriate, then the Seller's obligations under this contract shall be expunged, at the Seller's option, and the Seller shall be entitled to reasonable termination charges for the cancellation of this contract. It shall be the Buyer's responsibility to provide any required applications, documentation, or other similar action which may be necessary on the part of the Buyer to obtain any required license(s) to export from the United States or import into the Buyer's country. These

documents as applicable, may include but not necessarily be limited to, U.S. Government Form ITA629, International Import Certificate, Country End User Certificate and Import License.

#### Governing Law; Arbitration

Regardless of the place of contracting, place of performance or otherwise, the rights and obligations of Seller and Buyer with respect to this contract and all amendments, modifications, alterations or supplements thereto, shall be governed by the laws of the State of Ohio, U.S.A., excluding any such law(s) which direct the application of the laws of any other jurisdiction. Any controversy or claim arising out of or relating to this Agreement or the breach thereof, which cannot be settled within ninety (90) days of first arising shall be finally settled by binding arbitration in accordance with the then prevailing commercial arbitration rules of the American Arbitration Association before three (3) arbitrators appointed in accordance with said rules. Arbitration shall be held in Cleveland, Ohio, U.S.A. and shall be conducted in the English language. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof or application may be made to such court for judicial acceptance thereof and an order for enforcement, as the case may be.