



PSI Engineering, LLC
1800 East 122nd Street
Burnsville, MN 55337-6872
Phone: (952) 894-3150
FAX: (952) 894-5278

TERMS AND CONDITIONS

1. Definitions:

"Equipment" means all equipment (including materials and labor, incorporated therein) or operational spare parts or renewal parts or any other material (including tooling) or parts, or any combination thereof, furnished by Seller to Purchaser under the contract of purchase.

"Product" means any process, equipment, information, service, output or other thing of value which incorporates or results directly or indirectly from the Equipment or Services.

"Services" means work, direction of work, technical information or technical consulting and advice or other services furnished by Seller to Purchaser under the contract of purchase and include such activities as the installation, testing, alignment, startup, operation, repair and maintenance of the Equipment.

"Suppliers" means any of Seller's suppliers of material or services for the Equipment or Services, regardless of tier, including any engineering design review or services contracted for and performed by other companies.

2. Acceptance:

This quotation supersedes all previous quotations and agreements and is void unless accepted within fifteen days from date hereof unless otherwise stated and is subject to change upon notice.

Recommendations and quotations are made upon the basis of operating conditions specified by Purchaser. Should actual conditions be different than those specified and performance of the Equipment be adversely affected thereby or not adequate, Purchaser shall be responsible for the cost of all changes in the Equipment required to accommodate such conditions, and Seller reserves the right to cancel Purchaser's order and Seller shall be reimbursed for all costs and expenses incurred and reasonable profit for performance executed prior to the date of such termination.

All orders are subject to written acceptance by Seller's supplying plant.

When this quotation is accepted by Purchaser, all the terms and conditions contained herein become a part of the contract of purchase, unless otherwise stated in this quotation. Any conflicting or additional terms and conditions contained in any order submitted by Purchaser shall be of no effect unless assented to in writing by Seller.

3. Delivery:

Delivery of the Equipment hereunder shall be made F.O.B. Seller's plant. Shipping dates are approximate and are based on prompt receipt of all necessary information at Seller's plant. In case of delay in furnishing complete information, dates of shipment may be extended for a reasonable time based on conditions at Seller's plant. Receipt of the Equipment by Purchaser shall constitute a waiver of all claims for delay.

Seller shall not be liable for delay in delivery due to causes beyond its reasonable control or due to acts of God, acts of Purchaser, fires, labor disputes, boycotts, floods, epidemics, quarantine restrictions, war, insurrection, riot, civil or military authority, freight embargoes, transportation shortages or delays, unusually severe weather or inability to obtain necessary labor, materials or manufacturing facilities due to such causes, and in the event of any such delay, the date of delivery shall be extended for a length of time equal to the period of the delay.

4. Warranties:

A. Equipment

Seller warrants that the Equipment shall be free from defects in material, workmanship and title.

Accessories supplied by Seller but manufactured by others carry whatever warranty the manufacturers of such accessories conveyed to Seller and which can be passed on to Purchaser.

Seller's obligations under this warranty shall expire one (1) year after shipment by Seller.

B. Services

Seller warrants that the Services shall be performed in accordance with industry practices.

Seller's obligations under this warranty shall expire one (1) year after the Services are performed except that Seller's warranty obligations for repair work shall expire ninety (90) days from date of initial start-up or one (1) year after completion of repair work, whichever occurs first.

C. Conditions Applying to Warranties

1. This warranty for Equipment is conditioned upon the Equipment being received, unloaded, stored, handled, installed, tested, maintained and operated in a proper manner.
2. Neither the warranty for Equipment nor the warranty for Services shall be applicable in the event that failure to meet such warranty is the result of acts or omissions of persons (other than Seller or Seller's Suppliers in connection with the work performed by them hereunder), accidents, or alteration, abuse or misuse of the Equipment or alteration or misuse of the Services.

D. Remedy

1. Seller agrees to repair or replace F.O.B. Seller's plant any Equipment manufactured by the Seller which does not conform to the warranty for Equipment and to reperform Services which do not conform to the warranty for Services, provided that notice of claim of defect is received by Seller within one year from date of shipment of Equipment from Seller's plant or performance of Services. Equipment claimed to be defective must be returned, freight prepaid and in accordance with Seller's instructions to the point of manufacture, unless Seller directs otherwise.
2. Purchaser shall give Seller written notice of any defect, damage or nonconformity as soon as possible in order to permit Seller to make a timely investigation of the facts.

3. In connection with the performance of any corrective work, all removal and reinstallation of the Equipment shall be performed by Purchaser. Purchaser shall, at its expense, be responsible for removing, reinstalling, replacing or supplying any equipment, materials or structures which are necessary to provide reasonable access to the Equipment to be repaired or replaced. Any decontamination or radiation protection necessary in connection with the removal or on-site repair of the Equipment shall be performed by Purchaser without cost to Seller.
4. Title to and risk of loss of any Equipment being repaired shall remain with Purchaser at all times during the correction period wherever the repair takes place; provided, however, that Seller shall bear the risk of loss of any Equipment being repaired while such Equipment is away from Purchaser's facility and under Seller's care, custody and control. Transportation costs with respect to any replacement Equipment shall be paid by Purchaser.

E. Repaired or Replacement Equipment; Reperformed Services

When any Equipment is repaired or replaced or a Service is reperformed, the Equipment repaired or its replacement or the reperformed Service shall be subject to the same warranties, the same conditions and the same remedies provided for the original Equipment or Service; provided that the warranty period for the repaired or replacement Equipment or reperformed Service shall be for the balance remaining of the warranty period for the original Equipment or Service extending from the date of repair or replacement of the repaired or replacement Equipment or reperformance of the Service; provided, however, that the warranty period shall expire in no event later than twenty-four (24) months after the delivery of the original Equipment or performance of the original Service.

F. Exclusivity of Warranties

THE EXPRESS WARRANTIES SET FORTH HEREIN ARE THE EXCLUSIVE WARRANTIES OF SELLER AND NO OTHER WARRANTY, EXPRESS OR IMPLIED IN FACT OR BY LAW, IS APPLICABLE, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

5. Terms of Payment:

All prices are net cash 30 days, F.O.B. Seller's plant unless otherwise stated in this quotation. Seller reserves the right at any time to require cash payment in advance, security for payment or other payment terms satisfactory to Seller, and such modification shall not be a breach of the contract of purchase in the event Seller so elects to modify the terms of payment. Should Purchaser for any reason default in the payment of the contract of purchase, Purchaser agrees to pay all collection costs, attorney fees and expenses incurred in collecting payment, including interest on the amount due at the maximum legal contract rate. All transportation, insurance and similar charges incident to delivery shall be paid by Purchaser. Seller shall issue its invoice upon shipment, or upon notice to Purchaser that Seller is ready to ship, whichever is earlier. If the Contract price exceeds US\$100,000.00, progressive payments shall apply as follows: 10% upon submittal of certified outline drawing, 40% upon Seller's factory receipt of major castings and 50% upon notice that Seller is ready to ship.

6. Taxes:

Seller's prices do not include sales, use, excise or similar taxes. Consequently, in addition to the price specified herein, the amount of any present or future sales, use, excise or other similar tax applicable to the sale or use of Equipment or Services hereunder shall be paid by Purchaser, or in lieu thereof Purchaser shall provide Seller with a tax-exemption certificate acceptable to the taxing authorities.

7. General Limitations of Liability:

Seller's total liability to Purchaser for all claims of any kind, whether based on contract, tort (including negligence), strict liability or otherwise, for any loss or damage, arising out of, connected with, or resulting from the performance or breach of the contract of purchase shall in no event exceed the amount of the price of the specific Equipment or Service which gives rise to the claim. In applying the monetary limitation of Seller's total liability, such liability shall be reduced by the sum of (1) any damages paid to Purchaser by Seller, (2) any costs incurred and settlements made by Seller under Section 4 ""Warranties" and (3) any refund of the price for the Equipment or Services in the event of a rescission.

In all cases where Purchaser's claim, whether based upon contract, tort (including negligence), strict liability or otherwise, involves defective work or nonconforming Equipment or Services, or damage resulting therefrom, Purchaser's exclusive remedies and Seller's sole liability shall be those specifically provided for under Section 4 ""Warranties."

Seller shall not be responsible for the acts and workmanship of the employees, contractors, subcontractors or agents of Purchaser.

Seller shall not be liable for any property damage (including the equipment within the work description) or personal injury caused by (a) the negligence or fault of Purchaser's employees, contractors, subcontractors, agents or men, (b) failure to observe Seller's advice, (c) failure or malfunctioning of any tools, equipment, facilities or devices not furnished by Seller, or (d) use of instruments or the making of adjustments by Purchaser's employees, contractors, subcontractors or agents.

In no event, whether based upon contract, tort (including negligence), strict liability or otherwise, and whether arising before or after completion of its obligations under the contract of purchase, shall Seller be liable to Purchaser for losses or damages caused by reason of loss of use, revenue or profits, or cost of capital, or special, consequential or penal damages of any nature, and Purchaser shall indemnify Seller against any such claims by any third party.

The liability, if any, for any claims, whether based upon contract, tort (including negligence), strict liability or otherwise, for any loss or damage arising out of, connected with, or resulting from, the performance or breach of the contract of purchase shall be limited to specifically identified written claims submitted prior to the expiration of the applicable warranty period as set forth under Section 4 ""Warranties."

The provisions of this Section ""General Limitations of Liability" shall also protect Seller's Suppliers, shall apply to the full extent permitted by law regardless of fault and shall survive termination, cancellation or completion of the work under the contract of purchase.

Purchaser shall not sell the Equipment, Services or Product or otherwise transfer any interest therein without first securing from the transferee limitations of liability at least equivalent to that afforded Seller and its Suppliers as provided in this Section 7.

8. Severability:

If any provision of the contract of purchase is deemed to be void, invalid or inoperative for any reason, or any phrase or clause within such provision is deemed to be void, invalid or inoperative, that phrase, clause or provision shall be deemed modified to the extent necessary to make it valid and operative; or if it cannot be so modified, then such phrase, clause or provision shall be deemed severed from the contract of purchase, with the remaining phrases, clauses and provisions continuing in full force and effect as if the contract of purchase had been signed with the void, invalid or inoperative portion so modified or eliminated.

9. Cancellation:

Purchaser may cancel the contract of purchase only upon written notice and upon payment to Seller of reasonable and proper cancellation charges.

If in the opinion of Seller the financial condition of Purchaser does not justify continuance of the contract, Seller may require full or partial payment in advance or shall receive reimbursement for its reasonable and proper cancellation charges. In the event of bankruptcy or insolvency of Purchaser or in the event any proceeding is brought against Purchaser, voluntarily or involuntarily, under the bankruptcy or any insolvency laws, Seller shall be entitled to cancel the contract of purchase at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its reasonable and proper cancellation charges.

10. Suspension:

In the event Purchaser elects to suspend work under the contract of purchase, Purchaser shall notify Seller one week in advance of the suspension date. This notification shall be in writing and include the anticipated suspension period. Seller shall advise Purchaser of the price adjustment which shall be based on Seller's ability to reallocate manpower, material and equipment during the suspension period and any other differences in costs caused by the suspension.

11. Assignments:

Any transfer or assignment (including any transfer or assignment by operation of law or otherwise) of the contract of purchase or any rights thereunder by Purchaser without written consent of Seller shall be void.

12. Applicable Law:

The rights and obligations of the parties under the contract of purchase shall be interpreted and governed in all respects by the laws of the Wisconsin.

13. Limitation of Actions:

The statute of limitations for purposes of bringing any action under the contract of purchase shall be one (1) year from the date the cause of action accrued.

14. Entire Agreement:

The contract of purchase, consisting of these terms and conditions, Seller's quotation and Purchaser's order if accepted in writing by Seller, constitutes the entire agreement between Purchaser and Seller. All other previous and collateral agreements (including letters of intent or purchase orders issued by Purchaser), representations, warranties, promises and conditions relating to the subject matter hereof are superseded by the contract of purchase. Any understanding, promise, representation, warranty or condition not incorporated in the contract of purchase shall not be binding on either party.