

# General Terms & Conditions of Sale

## 1. General

This agreement contains the terms and conditions by which Beyerle US LLC (herein called 'Seller') will quote and sell its products (herein called 'Product') to customers (herein called 'Customer'). This agreement supersedes all prior and contemporaneous verbal and written statements of any kind whatsoever made by the parties and their representatives. ANY ACCEPTANCE BY SELLER OF CUSTOMERS PURCHASE ORDER IS EXPRESSLY CONDITIONED ON THE CUSTOMERS ASSENT TO AND ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT. In case of a conflict between this agreement and a purchase order issued by Customer the terms of this agreement will prevail.

## 2. Scope of Products and Orders

The scope of the products are attached to this agreement or separately arranged by Seller to Customer and subject to the conditions of section 1. Orders: All orders submitted by Customer must be in written form acceptable to Seller. A minimum net Product order value, excluding freight charges, may be required for each order. Such a minimum net Product order value will be attached to this agreement, separately identified in the specific price book, or separately arranged by Seller to Customer. In the case an order value does not meet any required minimum Product value, Seller will, at its sole discretion, either increase the quantity of items in the order to meet the minimum net Product value provided herein; apply a minimum order charge; or reject the order entirely. Receipt of an order: Seller will acknowledge receipt of each order issued in accordance with this agreement and will notify Customer whether the order has been accepted or rejected in whole or in part by Seller. If Seller fails to acknowledge receipt of an order within a reasonable time period, such failure to acknowledge receipt will be deemed a rejection of the entire order. Change to orders: Any changes to orders must be acknowledged by Seller in written form. Seller reserves the right to deny and change orders which have been previously acknowledged by Seller. The time period for making any changes to orders for products will be attached to this agreement; separately identified in the Product price list or separately arranged by Seller to Customer. All changes to orders are subject to a change order charge of 25 % of the net Product value or minimum US-\$ 25 plus the cost of fabrication or raw material that will be needed to be purchased for the change order. Unless otherwise specified by Company in writing, any changes to orders acknowledged by Seller that affect the delivery will be deemed a new order and will require acknowledgement by Seller as provided in this Section 2. Cancellation of orders: All cancellations of orders are subject to Sellers written acknowledgement to be valid. The time period for order cancellations will be attached to this agreement; separately identified in the price book, or separately arranged by Seller to Customer. All cancellations of orders acknowledged by Seller are subject to a cancellation charge of 25 % of the net Product value or minimum US-\$ 25, plus any production costs or the cost of raw materials that have been purchased for the order.

## 3. Prices and Payment

The prices specified by Seller are subject to change without notice to Seller's price valid at the time of each shipment of products. Additional charges may be applied for product modifications or engineering services. Verbal prices specified by Seller are null and void. Invoices: Seller will submit invoices to Customer stating amounts due. Payment Terms: Except otherwise provided, payment terms are net thirty (30) days from date of Sellers

invoices. Payment shall be made in United States dollars. Credit terms: All orders are subject to Seller's credit limit and terms of credit required by Seller or contained in Seller's credit application, which is subject to change by Seller at any time either before or after delivery of any part of the order. Seller reserves the right to request payment of an order and may withhold or stop shipment without any liability to Seller, until payment or assurance of payment is submitted as required by Seller. Default: If Customer is in default in payment or otherwise with respect to any order for products or any other contract with Seller, Seller shall have the right, in addition to all other legal remedies and without prejudice to any of its rights hereunder, to defer further shipments until such default is corrected and to declare all outstanding bills of Customer to be immediately due and payable. Taxes: Any taxes, charges, or duties imposed by any governmental authority on the sale of Products will be paid by Customer, in addition to the selling price specified by Seller. Late payment charges: Late payment charges of one and one half percent (1.5 %) per month (but not in excess of the legal maximum) will be charged on past due balances owed to the Seller.

#### 4. Delivery, Shipment, Freight Charges, Claims and Inspection

Delivery: Product delivery schedules are based upon current production capacities, material or component availability, as well as inventory, and may be changed by Seller as conditions require. In no event will Product delivery dates be construed as falling within the meaning of 'time is of the essence'. Partial deliveries shall be accepted by Customer and paid for the price and on the terms stated herein. Any partial delivery of products shall constitute a separate sale and payment shall be separately made when due. If any part of the Product is not delivered by Seller in accordance with Customer's order, this agreement shall not be affected thereby. Shipment: As long as Customer is located within the continental United States, Product will be sold F.O.B. Origin, Seller's warehouse or factory. If the Customer is located outside the United States, all Product will be sold Incoterms 2010, ex works Seller's factory. In either instance, title and risk of loss will pass to Customer upon transfer to the carrier at Seller's warehouse. Freight Charges: All freight charges will be separately added to the sales agreement, separately identified in the price book or separately arranged by Seller to Customer. Claims: All claims for loss or damage to Product while in the care, custody, and/or control of a carrier will be the sole responsibility of Customer, who will submit any claims to the carrier. Customer is responsible for filling any damage claims with freight carriers and is subject to the rules of the freight regarding the timing and processing of claims. Inspection: Inspection of Product will be done by Customer immediately after receipt of Product.

#### 5. Claims

All claims must be submitted in writing to Seller as follows: All claims for product quantity or incorrect orders must be submitted within three (3) days from the date of delivery. Any shortage claim not made within this period is conclusively deemed waived by Customer.

#### 6. Limited Warranty

Seller's Standard Limited Warranties relating to Product are applicable to this agreement. In the case that certain Product warranties are not attached to this agreement or separately arranged, Seller warrants to Customer only that Products will be free from defects in material and workmanship for a period of 12 months from the date of shipment of the Products. Seller's sole obligation under this warranty is limited to repairing or replacing, at its discretion and choice, the defective Product.

The guarantees of this limited Product warranty do not apply to Product in the following

cases: Product

- is used for purposes for which it is not intended or designed
- has been repaired or altered without Seller's prior written consent
- has been subjected to misuse, abuse, negligence, or accident
- has been improperly stored, installed, maintained, or operated
- has been used in violation of written instructions provided by Seller to Customer
- has been subjected to improper temperature, humidity or other unsuitable environmental conditions
- has been affected by normal wear and tear
- which based on Seller's examination, do not disclose to customers satisfaction nonconformance to the warranty.

## 7. Customers Remedies

THE CUSTOMERS EXCLUSIVE AND SOLE REMEDY ON ACCOUNT OF; OR IN RESPECT OF; THE FURNISHING OF PRODUCTS THAT DO NOT CONFORM TO THIS AGREEMENT WILL BE TO SECURE REPAIR OR REPLACEMENT OF THE PRODUCTS OR TO OBTAIN A REFUND OF THE PRICE PAID FOR THE DEFECTIVE PART, ALL AT SELLER'S OPTION. IN NO CASE WILL THE SELLER'S MAXIMUM LIABILITY EXCEED THE SALES PRICE FOR THE PRODUCTS.

### 7.1 Limitation of Liability:

IN NO CASE WILL SELLER'S BE LIABLE FOR INCIDENTAL; CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF USE OF THE PRODUCTS, SERVICE INTERRUPTION, LOSS OF PROFITS, LOSS OF REVENUE, INTEREST, LOST GOODWILL, WORK STOPPAGE, IMPAIRMENT OF OTHER GOODS, LOSS FOR REASON OF SHUTDOWN OR NON-OPERATION, INCREASED EXPENSES OF OPERATION, OR CLAIMS OF CUSTOMER'S CUSTOMERS, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO STRICT LIABILITY OR NEGLIGENCE), PATENT INFRINGEMENT OR OTHERWISE, EVEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### 7.2 STATUTE OF LIMITATIONS

NO ACTION ARISING OUT OF ANY CLAIMED BREACH OF THIS AGREEMENT BY SELLER MAY BE CLAIMED BY CUSTOMER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ARISEN.

## 8. Defaults or delays

Seller shall not be liable for any default or delay in the production or delivery of all or any goods resulting either directly or indirectly from (1) accidents, breakdowns, or mechanical failure of Seller's plant, machinery or equipment; strikes or other labour trouble, labour shortage, fire, flood, wars, acts of the public enemy, acts of god, delays of suppliers, delays in transportation or lack of transportation facilities, embargos, shortages of, or requested by Federal, state, or local governments, or any subdivision, bureau or agency thereof, or (2) any cause beyond the control of Seller. In no case shall Seller be liable for any consequential, special, or contingent damages arising out of Seller's default or delay in filling Customer's order.

## 9. Product Returns

Products may not be returned unless Customer receives written authorization from Seller. If returns are authorized by Seller, a Returned Material Authorization (RMA) number must be provided by Seller. Products identified under this RMA must be returned to Seller within thirty

(30) days of issuance of the RMA. Such a RMA number and any accompanying RMA documents, the original invoice number, and a written explanation for the return must be included with the returned products in order for Seller to inspect and approve a credit for the return. Only those products which are current, standard, non-obsolete, non customized, unused, in their original condition as at the time of sale by Seller to Customer and are in the original packaging may be considered by Seller for return. In the case Seller approves a return, a credit will be made to Customer's account. Freight charges as well as a handling and reprocessing charge of 25% of the net product value of the original invoice will be deducted.

#### 10. Product Changes

Seller reserves the right to change without notice the design of, or the process of manufacturing, the Products covered by this agreement; provided that the foregoing will not be construed as relieving Seller's obligation to deliver products which conform to the specifications which Seller may have arranged to Customer.

#### 11. Customer's agreement to defend

Customer agrees to defend, protect, and save Seller harmless against all suits at law or in equity and from all cost of suit, legal fees, expenses, damages, claims, and demands arising out of or awarded in connection with any goods: (1) sold or supplied to Customer by Seller that are not maintained and operated in accordance with recommended procedures, or (2) sold or supplied to Customer by Seller to meet Customer's specifications.

#### 12. Governing Laws

This agreement and any disputes or controversies arising hereunder will be governed by and construed according to the internal laws of the State of Georgia, United States of America, without regard to its conflict of law principles, and not including the United Nations Convention on Contracts for the International Sales of Goods. Jurisdiction and venue with respect to any action, proceeding, or suit in connection with this agreement will reside in the courts of the State of Georgia. Customer agrees to pay for all expenses (including attorney's fee) incurred by Seller in enforcing the obligations of Customer under this agreement.

#### 13. Waiver

The right of either party to require strict performance by the other party of any or all terms and conditions of this Agreement shall in no way be affected or impaired by prior waiver, forbearance, or course of dealing.

#### 14. Interpretation

Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, this provision will be deemed deleted and the remaining provisions of the Agreement will remain in full force and effect. The subject headings of the sections of this Agreement are included for the purpose of convenience only and will not affect construction or interpretation of any of its provisions.

#### 15. Servability

If any provision of this agreement is held to be invalid, illegal, or unenforceable under any statute, regulation, ordinance, executive order, or other rule of law, this provision will be deemed severed to the extent necessary to comply with such statute, regulation, ordinance, order, or rule. In the case such provision is deemed severed, the parties will negotiate in good

faith to arrive at an alternative arrangement approximating the original business objective of the parties. The remaining terms and conditions of this agreement will remain in effect.