



TERMS AND CONDITIONS OF SALE FOR AFTERMARKET COMPONENTS AND PARTS

1. Entire Agreement. These terms and conditions and the proposal, quote, or invoice to which these are attached contain the entire agreement of the parties with respect to the sale of the subject goods. Seller rejects any terms set forth in any purchase order or other document submitted by the Buyer, which Seller considers to be an offer that is not being accepted. Buyer agrees that by receiving and using the goods it accepts all terms set forth herein and withdraws all prior terms and conditions proposed in any purchase order or other document. Buyer expressly agrees that by accepting and using the subject goods it is

- a. withdrawing any proposed terms and conditions;
- b. agreeing not to assert or claim that its terms and conditions supersede the Seller's terms and conditions; and
- c. waiving all rights to contest or challenge that the Seller's terms and conditions control the sale and purchase of the subject goods.

2. Freight Charges. The prices stated in the proposal, quote, and/or invoice are FCA (Incoterms 2010) Seller's place of business, and do not include any special handling or special painting which shall be at the Buyer's expense. Extra expenses incurred incident to shipment abroad shall be considered special handling expenses and shall be paid by the Buyer. Additional rigging, installation, or equipment start-up costs are the responsibility of the Buyer.

3. Terms. All payments shall be made in United States dollars and shall be made within thirty (30) days of the invoice date. Unless otherwise agreed upon, for orders greater than \$25,000 a 50% down payment is required with the order. Notwithstanding the foregoing, if the shipment is delayed at the Buyer's request or due to conditions beyond the control of either the Seller or the Buyer, payment shall become due within thirty (30) days after the Seller notifies the Buyer that the goods are ready for shipment. In such event, Seller may, at its option and at Buyer's risk, store the goods in a warehouse or within Seller's premises. Upon submission of the appropriate invoice(s), the Buyer shall pay all handling, transportation, and storage costs incurred in connection with such storage. To the extent Buyer fails to make payment within the time periods provided above, Buyer shall be liable for interest at the rate of eighteen (18%) percent per annum, compounded annually, from the date payment is due until payment is received in full. Any partial payment(s) will be applied first to interest and then to the principal amount of the debt. To the extent Seller is required to retain legal counsel to collect any amount due and owing under this Agreement, Buyer shall be liable to Seller for all attorneys' fees, expenses, and costs incurred in conjunction with collecting any amount due and owing from Buyer, regardless of whether legal action is commenced.

4. Taxes. Prices set forth in the proposal, quote, and/or invoice are exclusive of taxes. The amount of any present or any future occupation, sales, use, service excise, or other similar tax which Seller shall be liable for, either on its own behalf or on behalf of the Buyer, with respect to any goods sold hereunder, shall be in addition to the proposal, quote and/or invoice amount and shall be paid by the Buyer within thirty (30) days of notice by Seller of such additional amounts.

5. Cancellation. In the event the Buyer requests that work stop on or upon the cancellation of all or any part of an accepted order, the Buyer shall pay the Seller as follows:

- a. If the ordered goods are manufactured and ready for shipment at the time Seller receives from Buyer notice to stop work on or cancel the order, then such goods shall be paid for at the full purchase price.
- b. If the goods are a work in process at the time Seller receives from Buyer notice to stop work on or cancel the order, then damages shall be paid on the basis of Seller's full accumulated costs for all services, supplies, engineering work, work in process (including all direct and indirect costs), and all commitments made by Seller in preparation for, and in manufacturing the goods up to the time of receipt of such notice plus any profit that would have otherwise been realized had the Buyer not notified Seller to stop work on or cancel the order. Any components which can be applied to other unfulfilled orders in process shall be applied and will reduce the amount owed by Buyer by Seller's accumulated costs of such components.

If the Buyer requests that work stop on or upon the cancellation of the order, the Buyer shall promptly instruct the Seller as to the disposition of the goods. Seller shall, if requested, hold the goods for Buyer's account. All costs of storage, insurance, handling, boxing, and shipping shall be paid by Buyer.

6. Delivery. Delivery dates are given as estimates only and should be considered as the dates when it is estimated that the goods will be ready for shipment.

7. Risk of Loss. Risk of loss shall pass to the Buyer as soon as the goods are loaded for shipment. The Buyer shall pay all costs of insurance from the time that risk of loss passes to the Buyer. Seller shall cooperate fully with the Buyer with respect to the Buyer obtaining insurance protection for the goods. To the extent that Seller maintains any insurance on the goods prior to receiving payment in full, such insurance shall be secondary to Buyer's insurance. Buyer agrees that Seller is entitled to receive the proceeds of all insurance payments, regardless of who purchased the insurance, until such time as Seller receives payment in full.

8. Applicable Law, Venue and Jurisdiction. This Agreement shall be governed by the Uniform Commercial Code and other applicable laws of the State of Georgia, without regard to principles of choice of laws. The exclusive venue for any dispute between the parties shall be in the state and federal courts for Atlanta, Georgia. Buyer submits to the jurisdiction of the state and federal courts for Newton County, Georgia. Buyer agrees to accept service of process by certified mail, return receipt requested, or any other form of delivery requiring the Buyer's signature.

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9. Warranty. The only warranty provided is that provided, if any, by the original manufacturer of the goods or the party from whom Seller purchased the goods ("Warrantor"). Seller agrees to transfer any such warranty to the Buyer. Seller warrants against de-lamination of Colmonoy hard facing on screws for 3 years from the date of shipment. Wear of screws and barrels are not covered under this or any other warranty offered by Seller. For all other goods sold under this Agreement, Seller will provide a 90-day warranty from the date of shipment. Warranty of parts manufactured by others including electronic components is limited to the warranty as issued by the supplier; Seller hereby agrees to transfer any such warranty to the Buyer. Buyer agrees to make and submit all warranty claims directly to Seller and Seller shall submit such warranty claims to Warrantor. The sole obligation of Seller under this or any other warranty, express or implied is, at its option, to repair without charge the defective part FCA Seller's place of business, or to furnish without charge FCA Seller's place of business, a replacement part. Unless otherwise agreed to by Seller, any part claimed to be defective under this warranty must be returned by the Buyer DAP (Incoterms 2010) Seller's place to establish the claim. Furthermore, this warranty is conditioned upon Seller receiving prompt notice of such defect. Seller shall have no obligation to install or pay for the installation of the replacement part. For repairs which must be carried out at the Buyer's facility, the Seller's standard service call rates for both labor and expenses will apply.

10. Disclaimer. ANY DESCRIPTION OF THE GOODS CONTAINED IN THE PROPOSAL, QUOTE, OR INVOICE OR IN ANY OTHER DOCUMENT IS FOR THE SOLE PURPOSE OF IDENTIFYING THEM, IS NOT PART OF THE BASIS OF THE BARGAIN, AND DOES NOT CONSTITUTE A WARRANTY THAT THE GOODS SHALL CONFORM TO THAT DESCRIPTION. FURTHERMORE, THE USE OF ANY SAMPLE OR MODEL IN CONNECTION WITH THIS CONTRACT IS FOR ILLUSTRATIVE PURPOSES ONLY, IS NOT PART OF THE BASIS OF THE BARGAIN, AND IS NOT TO BE CONSTRUED AS A WARRANTY THAT THE GOODS WILL CONFORM TO THE SAMPLES OR MODELS. NO AFFIRMATION OF FACT OR PROMISE MADE BY THE SELLER, WHETHER OR NOT IN THIS AGREEMENT OR ELSEWHERE, SHALL CONSTITUTE A WARRANTY THAT THE GOODS WILL CONFORM TO THE AFFIRMATION OR PROMISE. THIS SALE IS MADE ON THE EXPRESS UNDERSTANDING THAT THERE IS NO IMPLIED WARRANTY THAT THE GOODS SHALL BE MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE. BUYER ACKNOWLEDGES THAT IT IS NOT RELYING ON THE SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH GOODS SUITABLE FOR ANY PARTICULAR PURPOSE.

11. Indemnification. Buyer agrees to defend, indemnify, and hold Seller harmless ("Indemnify") from all claims, suits, proceedings, causes of actions, liabilities, losses, damages, and expenses, including reasonable attorneys' fees ("Claim" or "Claims"), arising out of the Buyer's negligent or tortious conduct, including, but not limited to, Buyer's failure to properly install or set up any part, component or machine, maintain the machine, instruct, or train its employees or workers on the proper and safe operation of the machine, display the proper warnings for the machine, install and maintain any guards, and any other negligent act or omission contributing to or resulting in a Claim. Buyer shall be required to indemnify Seller for Claims resulting from the concurrent negligence of Seller but shall not be required to indemnify Seller for Claims resulting from Seller's sole negligence. Buyer shall be required to indemnify Seller for any Claims arising from any injury to Buyer's employee(s), and it is expressly agreed that Buyer's obligations hereunder shall not be limited or affected by any worker's compensation laws, it is the parties' intention that this provision satisfies any requirement that there be an express agreement requiring an employer to indemnify a third party for claims arising out of injuries or accidents to the employer's own employees.

12. Limitation of Liability. Seller shall not be liable for any loss of profits or consequential, incidental, special, exemplary, or other damages due to delay in manufacture or delivery, regardless of the reason that such delay occurred, machine breakdown, defects in any part, component, or machine, or any other event or circumstance causing Buyer to suffer any loss or damage. Buyer's sole and exclusive remedy is to pursue any rights it has under the warranty issued by the Warrantor. In no event shall Seller's liability exceed the purchase price of the goods sold hereunder.

13. Installation and Warnings. Buyer is solely responsible for installing any goods sold hereunder and posting and/or maintaining all warranties associated with any part, component, or machine.

14. Drawings. Seller shall not be required to furnish detailed manufacturing drawings of the goods. Seller will supply Buyer with those documents and reference drawings that Seller determines are necessary for proper maintenance. Any drawings, specifications, and general technical information such as, but not limited to, foundation drawings, layout drawings, dimensional drawings, etc., given by Seller are believed by Seller to be adequate under normal operating conditions but should be adapted by Buyer to meet local or unusual conditions. Seller reserves the right to change, amend, or modify such drawings as well as its goods without prior notice and without incurring any obligation on goods previously delivered.

15. Intellectual Property and Confidentiality. Buyer does not acquire any right, title, or interest in, or license (either express or implied) to any drawings, designs, inventions, intellectual property, or any tooling or other tangible property, all of which shall remain the property of Seller. Buyer shall not at any time, without Seller's express written permission, disclose or allow to be disclosed to others any confidential information or trade secret regarding Seller's products, learned by Buyer as a result of this Agreement. All specifications, documents, drawings, and other data delivered by Seller to Buyer in connection with this Agreement shall be subject to this confidentiality obligation. Buyer's confidentiality obligation will not extend to information that is generally published or lawfully available from other sources or that was known to Buyer prior to disclosure thereof by Seller.

16. Condition Precedent. Seller's performance and extension of credit is conditioned upon Seller's review of and satisfaction with, in Seller's sole discretion, Buyer's financial condition. Buyer shall cooperate fully with Seller in providing Buyer's financial information.

17. Force Majeure. Seller shall not be liable for delays in any performance or for failure to render any performance when such delay or failure is caused by strikes, fire, flood, accident, embargo, war, pandemic, epidemic, failure of sources of supply, and other events beyond the control of Seller.