

INNOVATIVE AUTOMATION, INC. STANDARD TERMS AND CONDITIONS OF SALE

These Standard Terms govern each sale of Innovative Automation machinery, tooling, spare parts and production of parts. They may be waived or varied only by a writing signed by Innovative Automation referring to these Standard Terms and stating Innovative Automation's agreement to a change therein. Absent such a signed writing, Innovative Automation will not be considered to have accepted conflicting terms in any Customer purchase order or other document.

Definitions:

"Seller" means Innovative Automation, Inc. "Buyer" means the party that ultimately placed the order and issued a purchase order for the sale.

Scope:

The terms and conditions of sale set forth below apply to all quotations made and purchase orders accepted by Seller.

Acceptance of Orders:

All orders are subject to acceptance by authorized officials at Seller's division or subsidiary offices. Any additional or different terms and conditions proposed by the Buyer, whether written or oral, are hereby objected to and rejected and, as such, are of no force and effect.

Prices:

Prices quoted are for acceptance within thirty (30) days from date of quotation unless otherwise stated. Prices are stated in US Dollars and do not include any foreign or domestic sales, use, excise or other similar taxes. All quotations are subject to withdrawal, change and prior sale without notice.

Scheduling:

Shipping dates are approximate and are based upon prompt receipt of all necessary information. Buyer shall furnish to Seller written shipping instructions in sufficient time to permit Seller to make shipment at Seller's option within any time or times herein specified for shipment. In the event of a delay in delivery due to any reason described in Delivery and Transportation or Terms of Payment below, the delivery date shall be deferred for a period equal to the time lost by reason of delay. In the event such a delay shall continue for more than 90 days then, at Seller's option, the order will be deemed cancelled without liability to Seller.

Shipment:

Completion and shipping dates are approximate and are calculated from date of receipt of (i) Customer's order, (ii) downpayment or letter of credit satisfactory to Seller, and (iii) all information, specifications and materials required from Buyer for execution of the order including, if applicable, samples of Buyer stock to be run on the machinery for use by Seller's Engineering Department in designing the machinery.

Quantities:

Seller reserves the right to ship quantities (or weight, as applicable) that are within ten percent (10%) of the quantity (or weight) specified by Buyer, and Seller shall not be liable for any over shipment or under shipment within this limit. In the event of any over shipment within this limit, Buyer shall pay for the actual quantity (or weight) shipped.

Changes:

Specification changes or other changes by Buyer after the order is placed are subject to acceptance by Seller and to price adjustment necessary to cover additional engineering and manufacturing as well as the cost of materials procured and labor expended prior to the change.

Additional Costs/Expenses:

Buyer shall pay all added costs and expenses incurred by Seller as a result of delays in receipt of details, specifications, and other pertinent information from the Buyer or because of changes requested by the Buyer.

Freight and Insurance:

All freight and insurance charges are the responsibility of the Buyer unless otherwise agreed to between Seller and Buyer.

Delivery and Transportation:

Seller's delivery dates are approximate. Seller shall not be liable for delays in delivery or other defaults in performance of this order arising out of causes beyond Seller's control. Unless otherwise noted in the original proposal submitted, the purchase price **excludes** all shipping and transportation costs which will ultimately be the responsibility of the Buyer. Unless otherwise agreed to in writing by Seller, delivery of the product(s) hereunder shall be **ExWorks** (Named Place of Delivery) at the point of shipment with delivery to the initial carrier to constitute delivery to the Buyer. Title to products passes to Buyer and products are at risks of Buyer from and after delivery to the initial carrier. Transportation expenses will be paid by Buyer, and risk of loss, shortage, delay of damage to products in transit shall fall upon Buyer, whose responsibility it shall be to file claims with the carrier.

Shipping and Ship Preparation Costs:

Unless otherwise agreed, prices do not include shipping, ship preparation and export packing costs, estimates for which can be provided by Seller upon request. All shipping and ship preparation costs, port fees, duties and taxes will be the responsibility of the Buyer.

Delivery to Common Carrier:

Delivery of the order to the vessel, trucker or other common carrier will constitute delivery to Buyer, and Buyer will look to the carrier or relevant insurer for any loss or damage suffered in transit. If at the time of receipt of an order there is any evidence of damage to the pack stack or to the contents, such fact should be noted on any receipt signed by the Buyer and claim should be made against the carrier without delay.

Terms of Payment:

Terms of payment are net cash prior to shipment in United States Dollars, unless otherwise stated in the issued proposal. Invoices are due and payable (30) thirty days from the date of invoice unless other terms are shown on the face hereof. A 1 ½% carrying charge will be applied to all past due amounts. If shipments are delayed by Buyer, payments shall become due on the date when Seller is prepared to make shipment. If the work covered by the purchase order is delayed by Buyer, payments shall be made based on the purchase price and the percentage of completion. Seller reserves the right to ship to its order and make collection by sight draft with bill of lading attached.

Warranty:

The equipment or merchandise sold by Seller hereunder is sold with a one-year warranty or to the extent of warranty coverage provided by the manufacturer of a particular component. This warranty does not include wear items, examples of wear items are blades or roller bearings. Seller warrants the products manufactured by it to be free from defects in material and workmanship only. The extent of Seller's obligation hereunder is to either repair or replace its work or the defective products. No allowance will be granted for repairs or alterations made by Buyer without Seller's written approval. Any repairs or alterations made by Buyer without Seller's written approval shall void the manufacturer's warranty. The use of parts/components by Buyer on equipment and tooling sold by Seller shall void the manufacturer's warranty. The warranty shall not be construed to cover the cost of any work done by Buyer on material furnished by Seller or the cost of removal or installation of product. Products and parts not manufactured by Seller are warranted only to the extent Seller is able to enforce such warranty. There is no other warranty, expressed or implied in fact or by law.

THE FOREGOING STATES THE SOLE AND EXCLUSIVE WARRANTY OF BUYER AND THE SOLE AND EXCLUSIVE WARRANTY OF SELLER. THE WARRANTIES, STATED IN THIS PARAGRAPH ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR VERBAL, STATUTORY, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED.

Non-Liability of Seller:

SELLER SHALL NOT BE LIABLE FOR ITS FAILURE TO PERFORM HEREUNDER DUE TO ANY CONTINGENCY BEYOND ITS REASONABLE CONTROL, INCLUDING ACTS OF GOD, FIRES, FLOODS, WARS, SABOTAGE, ACCIDENTS, LABOR DISPUTES OR SHORTAGES, GOVERNMENT LAWS, REGULATIONS, ORDINANCES OR CODES, INABILITY TO OBTAIN MATERIAL, MATERIAL EQUIPMENT OR TRANSPORTATION AND ANY SIMILAR OR DIFFERENT CONTINGENCIES. SELLER SHALL NOT BE RESPONSIBLE, OBLIGATED, OR LIABLE FOR ANY INJURY OR DAMAGE RESULTING FROM AN APPLICATION OR USE OF ITS PRODUCTS, EITHER SINGLY OR IN COMBINATION WITH OTHER PRODUCTS. SELLER'S SOLE LIABILITY FOR BREACH OF WARRANTY OR ANY OTHER CLAIM SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCT. AT SELLER'S SOLE OPTION, SELLER SHALL NOT BE LIABLE FOR DAMAGES, INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL OR SPECIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE PRODUCTS OR ARISING OUT OF ACCEPTANCE OF THIS ORDER. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT OR WARRANTY OR TORT (INCLUDING NEGLIGENCE), WILL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUE, COST OF CAPITAL, LOSS OF CUSTOMERS FOR SERVICE INTERRUPTIONS OR FAILURE OF SUPPLY, AND COSTS AND EXPENSES INCURRED IN CONNECTION WITH LABOR, OVERHEAD, TRANSPORTATION, INSTALLATION OR REMOVAL OF PRODUCTS OR SUBSTITUTE FACILITIES OR SUPPLY SOURCES.

Acceptance of Products:

Products will be deemed accepted without any claim by Buyer unless written notice of non-acceptance is received by Seller within 15 days of delivery at the point of destination. Such written notice shall not be considered received by Seller unless it is accompanied by all freight bills for such shipment with agent's notations as to damages, shortages and conditions of equipment, containers and seals. Non-accepted products are subject to return policy stated below. All completed orders ready for shipment by Seller for which Buyer acceptance is delayed may be charged a storage fee by Seller for extended storage of a non-collected order.

Tryout:

It is recommended that Buyer attend tryout of the machinery purchased at Seller's accepting office premises. Seller will use its best efforts to notify Buyer reasonably in advance of the scheduled tryout date. If Buyer chooses not to or is unable to attend, the results of the tryout will be recorded by Seller and provided to Buyer. Following satisfactory completion of the tryout, Seller will have the right to ship the machinery without further delay. Start-up and training by Seller technicians at Buyer's factory are not included in the price of Seller's machinery. If requested by Buyer, Seller will be pleased to provide such assistance and training at a per diem charge to be quoted by Seller and agreed to by Buyer.

Buyer's Responsibility and Indemnity:

It shall be Buyer's responsibility to ensure that any equipment purchased from Seller is installed and operated in a proper and safe manner. Buyer also acknowledges that it may have to install or change guards, safeties, warnings or other components to ensure that the machine will conform to all applicable regulations, ordinances, codes, insurance requirements and industry standards. Buyer agrees to defend, indemnify and hold harmless Seller from and against all suits, claims, costs and expenses, including reasonable attorney's fees, for personal injury, death or property damage arising from the purchase, ownership or use by the Buyer, Buyer's agents, employees or independent contractors of the equipment purchased.

Connections and Wiring:

Unless otherwise agreed, floor plates, foundation bolts, connecting electric wiring or conduits, connecting piping and Wiring or supports for lubricating, air, water or hydraulic systems, and parts or devices that may be required by any law or regulation of Buyer's jurisdiction, are not included in the order.

Safety:

Buyer will use and observe, and require its employees to use and observe, all protective devices, guards and warnings included with machinery supplied hereunder, and all safety procedures set forth in operating manuals or other written instructions, or otherwise conveyed by Seller in the course of Buyer tryout or set-up and training at Buyer's premises. Buyer will not without Seller's written consent remove or modify any such device, guard, warning or safety procedure. Buyer will notify Seller within ten days of any accident or malfunction involving machinery supplied hereunder which results in personal injury or property damage, and will cooperate fully with Seller in investigating and determining the cause of such accident or malfunction. Buyer agrees to indemnify and hold Seller harmless from any liability, claim or expense arising out of personal injury or property damage alleged to have been caused by machinery supplied hereunder (i) to the extent such machinery was operated without or in violation of any of such protective device, guard, warning or safety procedure, or (ii) if Buyer fails to give such ten-day notice.

Drawings and Manuals:

Because Seller considers detailed working drawings and designs to be part of the Seller's stock in trade, working drawings are not included with the purchase hereunder. Seller will provide Buyer with two operating manuals covering installation, operation and maintenance of the machinery purchased.

Return of Products:

No product may be returned to Seller without Seller's prior written permission, which permission may be withheld by Seller in its sole discretion.

Damages to Returned Products:

If Buyer elects to return product(s) to Seller for refurbishment, Buyer agrees to accept all risk of damage or destruction of such returned product(s) and Seller shall not be liable for any failure or inability on the part of Seller to complete refurbishment upon any such returned products.

Use of Products Sold:

Buyer acknowledges that the sale to it of any equipment by Seller permits Buyer or its assigns to use said equipment. It does not permit or authorize the Buyer or its assigns to duplicate, replicate, copy or include its technology in any other equipment that Buyer may use or construct. Buyer further acknowledges that Seller has a proprietary interest in all equipment hereby sold to Buyer, which Seller has a right to protect by injunctive relief and/or monetary damages.

Patents:

Buyer shall hold Seller harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Buyer's design specifications or instructions. The sale of products or parts thereof by Seller does not convey any license by implication or otherwise under patent claims covering combinations of these products or parts with other devices or elements.

Design for Standard Stock:

Quoted prices assume that machinery purchased will be operated by Buyer using standard materials such as tubing, fin stock, etc., of the type customarily used by most major manufacturers. To the extent Buyer intends to materials that varies from standard, thus necessitating extra design and engineering work on behalf of Seller, the cost of such extra work will be charged to Buyer and the estimated time to completion will be extended as required to accommodate the nonstandard material change.

Product Designs:

It is not the responsibility of Seller to design the products that Buyer will be producing on Seller's machinery. That a Buyer's product design may be discussed, or it is suggested that a different design may reduce the time or cost required to engineer or manufacture the machinery to produce such product, does not mean that Seller assumes responsibility for Buyer's product design. Evaluation, testing and final decision as to the design of Buyer's products to be produced on Seller's machinery rest solely with Buyer.

Financial Responsibility:

If in the sole judgment of Seller the financial resources of Buyer become impaired or unsatisfactory at any time during the term of the agreement between the parties, then Seller may require of Buyer a deposit or suitable security or margin for performance by Buyer in such amount or amounts from time to time as Seller shall specify upon requirement of deposit. Buyer shall make such deposit no later than the close of Seller's next business day. If buyer fails to make such deposit, then Seller may at its option (1) cancel the agreement between the parties or the undelivered portion thereof, in which case Buyer agrees to pay Seller the difference between the market price on date of cancellation and the contract price; (2) resell at any time for Buyer's account all or any undelivered portion of the products, in which case Buyer agrees to pay Seller the difference between the resale price and the contract price, or (3) otherwise change the terms of payment. In the event Buyer shall be or becomes insolvent, or admits in writing Buyer's inability to pay Buyer's debts as they mature, or if Buyer shall make an assignment with creditors or if there are instituted by or against Buyer proceedings in bankruptcy or under any insolvency laws or for reorganization, receivership or dissolution, Seller may terminate the agreement between the parties at any time and without notice.

Taxes, Permits, Sales, Bank Charges:

Sales, use or similar taxes are not included in the purchase price and will be borne by Buyer. The amount of any present or future sales, use, excise or other general or specific tax or imports, duties or penalties or other governmental charges fixed or imposed by any lawful authority(s) upon or applicable to the production, sale, shipment, delivery or use of the products sold hereunder shall be added to the price and be paid by Buyer or in lieu thereof, Buyer shall provide Seller with a tax exemption certificate acceptable to the taxing authorities. If any such tax or duties are paid by Seller, Buyer shall reimburse Seller upon presentation of invoice. Any required bank charges, import permit or other license or permit is the responsibility of Buyer. Wire transfer, letter of credit, currency conversion and other bank charges will be borne or reimbursed by Buyer.

Force Majeure:

In the event of war, fire, epidemics, quarantine restrictions, flood, strike labor trouble, breakage of equipment, accident, riot, the imposition of any government price control regulation or any other act of governmental authority, acts of God or other contingencies (whether similar or dissimilar to the foregoing) beyond reasonable control of Seller, interfering with the production, supply, transportation or consumption practices of Seller at the time respecting the products covered by the agreement between the parties or in the event of inability to obtain on terms deemed by Seller to be practicable any raw material (including energy source) used in connection therewith, quantities so affected shall be eliminated from the contract without liability, but the contract shall otherwise remain unaffected. Seller may during any period of shortage due to any of these causes, allocate its supply of such raw material among its various uses therefore (e.g. manufacturing and sales) in such manner as Seller deems practicable and allocate its supply of such products among such various uses thereof in any manner which Seller deems fair and reasonable.

Time for Bringing Action:

Any action by Buyer for breach of any agreement of which these Terms are a part shall be commenced within three months after the cause of action has accrued or be deemed waived.

Reasonable Attorney's Fee:

In the event suit or other proceeding shall be brought for the recovery of the purchase price or any unpaid balance or the breach by Buyer of any term of the agreement between Seller and Buyer, Buyer shall pay to Seller in addition to any damages provided by law, reasonable attorney's fees and costs of collection.

Security Title:

Seller title and right of possession of the products sold hereunder shall remain with Seller until all payments due from Buyer to Seller (including deferred payments whether evidenced by notes or otherwise) shall have been made in cash and Buyer agrees to do all acts necessary to perfect and maintain such security right and title in Seller.

Cancellation, Security:

Since each order is engineered and custom-manufactured for that Buyer, an order may be cancelled only with Seller's prior written consent and only upon agreed payment terms that cover Seller for all costs incurred plus forgone profit. If Seller agrees to an order cancellation, a restock fee may apply, the details of which will be conveyed to Buyer at time of cancellation acceptance by Seller. Buyer forfeits all rights to cancelled equipment or products upon cancellation acceptance by Seller. Buyer may be required to post adequate security for future purchase price payments if in Seller's reasonable judgment there arises any doubt as to Buyer's ability to make timely payment.

Limitation of Remedies:

NO CLAIM OF ANY KIND SHALL BE GREATER IN AMOUNT THAN THE PURCHASE PRICE OF THE MERCHANDISE IN RESPECT OF WHICH SUCH DAMAGES ARE CLAIMED, AND FAILURE TO GIVE NOTICE OF CLAIM WITHIN THIRTY (30) DAYS FROM THE DATE OF DELIVERY OR THE DATE FIXED FOR DELIVERY (IN THE EVENT OF NONDELIVERY) SHALL CONSTITUTE A WAIVER BY BUYER OF ALL CLAIMS IN RESPECT OF SUCH MERCHANDISE. THE REMEDY HEREBY PROVIDED SHALL BE THE EXCLUSIVE AND SOLE REMEDY OF BUYER ANY RIGHT TO CONSEQUENTIAL AND INCIDENTAL DAMAGES IS EXCLUDED.

Modifications:

Buyer acknowledges that these are the only terms and conditions of sale and are intended by the parties as a complete and exclusive statement of the terms of their agreement, and supersedes all prior agreements, written or oral, and upon issuance of Seller's invoice or acknowledgment will become part of that invoice or acknowledgment. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term. Acceptance of acquiescence in a course of performance rendered shall not be relevant to determine the meaning of any agreement with Seller, even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used herein, the definition contained in the Code shall control. Any variation from the terms hereof contained in Buyer's acceptance is hereby rejected. The Agreement of which these terms are a part can be modified or rescinded only by a writing signed by both parties or their duly authorized agents.

General:

The agreement between Buyer and Seller and matter connected with the performance thereof shall be construed in accordance with and governed by the laws of the State of Seller's accepting offices, as if it were executed and performed entirely within the State of Seller's accepting offices and shall be construed to be between merchants.

Any assignment of the agreement between Buyer and Seller or any rights or obligation of the agreement by Buyer without written consent of Seller shall be void.

Except as may be expressly provided to the contrary in writing, the provisions of the agreement between Buyer and Seller are for the benefit of the parties hereto and not for any other person.

These terms and conditions of sale and any agreement of which they are a part shall be construed in accordance with the laws of the State of Seller's accepting offices.

No waiver by Seller of any breach of any provision of the agreement between Buyer and Seller will constitute a waiver of any other breach.

The terms and conditions set forth above contain all of the representations, stipulations, warranties, agreements and understandings with respect to the subject matter of the agreement between Buyer and Seller and its execution has not been induced by any representation, stipulation, warranty, agreement or understanding (including any course of prior dealings between the parties hereto) at any kind other than those set forth above.

No amendment, addition to, alteration, modification or waiver of all or part of the agreement between Buyer and Seller shall be made by any force or effect unless in writing and signed by Seller. If the terms and conditions set forth above conflict with those of any purchase order of Buyer written in connection with the sale of the products or any portion thereof, then the terms set forth above shall govern.

Arbitration:

Any controversy or claim arising out of or relating to the agreement between Buyer and Seller, or the breach thereof, shall be settled in the City and State of the Seller's accepting offices by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.