

TERMS OF SALE

GENERAL

THE FOLLOWING TERMS AND CONDITIONS, INCLUDING THOSE ON THE PRECEDING PAGE(S) OF THIS DOCUMENT, SHALL CONSTITUTE THE ENTIRE AGREEMENT FOR THE PURCHASE AND SALE OF PRODUCTS FROM SKARDA EQUIPMENT COMPANY INC. ANY ACCEPTANCE CONTAINED HEREIN IS MADE EXPRESSLY CONDITIONAL UPON THE PURCHASER'S ASSENT TO THE TERMS WHICH ARE DIFFERENT FROM, IN ADDITION TO, OR VARY FROM THE TERMS CONTAINED IN THE PURCHASER'S PURCHASE ORDER OR REQUEST FOR QUOTATION, SUCH ASSENT SHALL BE DEEMED TO OCCUR UPON THE FAILURE OF THE PURCHASER TO OBJECT IN WRITING SPECIFICALLY TO SUCH TERM OR REQUEST FOR QUOTATION WHICH ARE DIFFERENT FROM, IN ADDITION TO, OR VARY FROM SKARDA EQUIPMENT COMPANY'S TERMS AND CONDITIONS SHALL NOT BE BINDING UPON SKARDA EQUIPMENT COMPANY AND SKARDA EQUIPMENT COMPANY HEREBY OBJECTS THERE TO.

CHANGES

PRIOR TO THE DATE OF DELIVERY OF ANY PRODUCTS HEREUNDER, THE PURCHASER SHALL HAVE THE RIGHT TO MAKE CHANGES IN ITS ORDER PROVIDED THAT SKARDA EQUIPMENT COMPANY RECEIVES WRITTEN NOTICE OF THE DESIRED CHANGES AND ACCEPTS THE SAME AND PROVIDED FURTHER THAT THE PURCHASER ACCEPTS THE ADDITIONAL CHARGE THEREOF AS DETERMINED BY SKARDA EQUIPMENT COMPANY. CHANGES WHICH INTERFERE WITH OR ALTER SKARDA EQUIPMENT COMPANY'S VENDOR PRODUCTION SCHEDULES WILL NOT BE ACCEPTABLE UNLESS THE TIME FOR PERFORMANCE IS EXTENDED FOR SUCH PERIOD AS DEEMED NECESSARY BY SKARDA EQUIPMENT COMPANY. FAILURE OF SKARDA EQUIPMENT COMPANY TO ACCEPT A PURCHASER'S REQUEST TO CHANGE ITS PURCHASE ORDER SHALL NOT BE CAUSE FOR PURCHASER'S CANCELLATION OF ITS ORDER EXCEPT UPON PAYMENT OF A CANCELLATION CHARGE TO BE DETERMINED BY SKARDA EQUIPMENT COMPANY, INC.

CANCELLATION

(A) SKARDA EQUIPMENT COMPANY SHALL HAVE THE ABSOLUTE RIGHT TO CANCEL THIS AGREEMENT UPON BREACH THEREOF BY THE PURCHASER. FAILURE BY THE PURCHASER TO MAKE ANY PAYMENT REQUIRED BY THIS AGREEMENT, OR THE INSOLVENCY OR BANKRUPTCY OF THE PURCHASER. (B) A PURCHASE ORDER OR ANY PART THEREOF WHICH IS HEREBY ACCEPTED BY SKARDA EQUIPMENT COMPANY MAY NOT BE CANCELLED UNLESS AND UNTIL SKARDA EQUIPMENT COMPANY RECEIVES WRITTEN NOTICE OF THE CANCELLATION, HAS DETERMINED THE ADDITIONAL CHARGE TO BE MADE, AND THE SAME HAS BEEN ACCEPTED AND PAID BY THE PURCHASER. UPON RECEIPT OF A NOTICE OF CANCELLATION, SKARDA EQUIPMENT COMPANY SHALL BE ENTITLED TO TAKE WHATEVER ACTION IT DEEMS NECESSARY AND ADVISABLE TO MINIMIZE CANCELLATION CHARGES.

WARRANTY

(A) SKARDA EQUIPMENT COMPANY, INC. IS A MANUFACTURER'S AGENT AND INDUSTRIAL DISTRIBUTOR ONLY AND DOES NOT DESIGN, MANUFACTURE, OR FABRICATE, BUT ONLY SELL PRODUCTS THAT ARE MANUFACTURED, DESIGNED, AND FABRICATED BY THE VENDORS SKARDA EQUIPMENT COMPANY, INC. REPRESENTS. SKARDA EQUIPMENT COMPANY, INC. IS NOT ABLE TO EXTEND ANY WARRANTIES OR GUARANTEES BEYOND THE WARRANTIES AND GUARANTEES PRINTED BY THE MANUFACTURERS OF THE PRODUCTS SOLD. SKARDA EQUIPMENT COMPANY, INC. WILL NOT BE RESPONSIBLE FOR ANY LOSS DUE TO "DOWN TIME" OR ANY LABOR CHARGES. COPIES OF THE MANUFACTURER'S WARRANTIES FOR THE PRODUCTS SKARDA EQUIPMENT COMPANY, INC. IS QUOTING ON HAVE BEEN PROVIDED TO YOUR EMPLOYEES. IF ADDITIONAL COPIES OF THESE WARRANTIES ARE NEEDED, PLEASE LET US KNOW. SKARDA EQUIPMENT COMPANY, INC. IS NOT AN ENGINEERING OR DESIGN COMPANY, NOR DO WE HAVE ANY ENGINEERING PERSONNEL ON OUR PAYROLL. SKARDA EQUIPMENT COMPANY DOES NOT ASSUME RESPONSIBILITY FOR THE FABRICATION, DESIGN, INSTALLATION, OR OPERATION OF ANY COMPONENTS OR SYSTEMS. SKARDA EQUIPMENT COMPANY ASSUMES NO LIABILITY FOR LABOR CHARGES INCIDENTAL TO THE ADJUSTMENT SERVICES, REPAIRING REMOVAL OR REPLACEMENT OF THE PRODUCT, OR OTHER COSTS, OR FOR THE EXPENSE OF REPAIRS MADE OUTSIDE OF ITS VENDOR'S FACTORY EXCEPT WHEN MADE PURSUANT TO SKARDA EQUIPMENT COMPANY'S PRIOR WRITTEN CONSENT. SKARDA EQUIPMENT COMPANY, AT ITS OPTION, MAY SHIP A REPLACEMENT OR REPLACEMENTS IMMEDIATELY UNDER STANDARD BILLING AND MAKE WARRANTY ADJUSTMENT AFTER INSPECTION OF THE DEFECTIVE PRODUCT BY MEANS OF CREDIT MEMORANDUM.

DELAYS

SKARDA EQUIPMENT COMPANY SHALL NOT BE LIABLE FOR DAMAGES OR DELAYS IN PERFORMANCE DUE TO CIRCUMSTANCES BEYOND ITS REASONABLE CONTROL, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY PRIORITY SYSTEM ESTABLISHED BY ANY AGENCY OF THE UNITED STATES GOVERNMENT, FIRES, FLOODS, STORMS, AND OTHER ACTS OF GOD, ACCIDENTS, STRIKES, INSURRECTIONS, WAR SHORTAGE OF MATERIALS, LACK OF TRANSPORTATION AND FAILURE OF PERFORMANCE OF SUBCONTRACTORS AND/OR SUPPLIERS FOR SIMILAR REASONS. FAILURE OF SKARDA EQUIPMENT COMPANY TO PERFORM FOR THESE REASONS AFORESAID SHALL NOT BE GROUNDS FOR PURCHASER'S CANCELLATION OF ITS ORDER, BUT THE DELIVERY DATE SHALL BE EXTENDED ACCORDINGLY.

LIMITATION OF LIABILITY

NO CLAIM MADE HEREUNDER BY THE PURCHASER, WHETHER AS TO GOODS DELIVERED OR FOR NON DELIVERY, SHALL BE GREATER THAN THE PURCHASE PRICE OF THE GOODS IN RESPECT OF WHICH SUCH CLAIM IS MADE, AND SKARDA EQUIPMENT COMPANY SHALL UNDER NO CIRCUMSTANCES BE LIABLE FOR CONSEQUENTIAL DAMAGES.

MISCELLANEOUS

(A) THIS AGREEMENT MAY NOT BE ASSIGNED OR OTHERWISE TRANSFERRED BY PURCHASER WITHOUT THE PRIOR WRITTEN CONSENT OF SKARDA EQUIPMENT COMPANY AND ANY SUCH AGREEMENT OR TRANSFER WITHOUT SUCH PRIOR WRITTEN CONSENT SHALL BE NULL AND VOID AND OF NO FORCE OR EFFECT WHATSOEVER.

(B) SKARDA EQUIPMENT COMPANY'S FAILURE TO INSIST, IN ONE OR MORE INSTANCES, UPON THE PERFORMANCE OF ANY TERM OR TERMS OF THIS AGREEMENT, SHALL NOT BE CONSTRUED AS A WAIVER OR RELINQUISHMENT OF ITS RIGHTS TO SUCH PERFORMANCE OR THE FUTURE PERFORMANCE OF SUCH TERM OR TERMS AND PURCHASER'S OBLIGATION WITH RESPECT THERETO SHALL CONTINUE IN FULL FORCE AND EFFECT.

(C) ANY NOTICE OR OTHER COMMUNICATION REQUIRED OR PERMITTED HEREUNDER SHALL BE SUFFICIENTLY GIVEN IF SENT IN WRITING BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE OTHER PARTY THERETO AT ITS RESPECTIVE ADDRESS FIRST ABOVE WRITTEN, ANY SUCH NOTICE, OR SO MAILED, SHALL BE DEEMED TO HAVE BEEN RECEIVED ON THE THIRD BUSINESS DAY FOLLOWING SUCH MAILING. EITHER PARTY HERETO MAY CHANGE IT ADDRESS FOR NOTICE PURPOSES BY WRITTEN NOTICE TO THE OTHER PARTY.

(D) THE PARAGRAPH HEADINGS IN THIS AGREEMENT ARE USED FOR CONVENIENCE ONLY. THEY FORM NO PART OF THIS AGREEMENT, AND ARE IN NO WAY INTENDED TO ALTER OR AFFECT THE MEANING OF THIS AGREEMENT.

(E) THIS AGREEMENT MAY BE AMENDED AT ANY TIME BY MUTUAL AGREEMENT OF THE PARTIES HERETO BY AN ENDORSEMENT TO THIS AGREEMENT SIGNED BY EACH OF THEM.

(F) THE INVALIDITY, IN WHOLE OR IN PART, OF ANY PROVISION OF THIS AGREEMENT SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF ANY OTHER OF ITS PROVISIONS.

(G) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUCTED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEBRASKA.

TAXES

ALL APPLICABLE FEDERAL, STATE, OR LOCAL SALES, USE, OR EXCISE TAXES ARE THE RESPONSIBILITY OF THE PURCHASER, AND SHALL BE IN ADDITION TO THE PRICE OR PRICES STATED ON THE PRIOR PAGES OF THIS DOCUMENT, UNLESS OTHERWISE SPECIFICALLY STATED, SKARDA EQUIPMENT COMPANY SHALL HAVE THE RIGHT TO INVOICE SEPARATELY ANY SUCH TAX AS MAY BE IMPOSED AT A LATER TIME. APPLICABLE TAX EXEMPTION CERTIFICATES MUST ACCOMPANY ANY ORDER TO WHICH THE SAME APPLIES.

PAYMENT TERMS

(A) NET 30 DAYS, A SERVICE OF 1 1/2 PERCENT PER MONTH (18 PERCENT ANNUAL RATE) WILL BE CHARGED ON BALANCES WHICH ARE OVER 30 DAYS.

(B) F.O.B. SHIPPING POINT, UNLESS OTHERWISE STATED.