



Bancroft Engineering General Conditions of Supply

I. DEFINITIONS-Bancroft Engineering LLC is herein below referred to as the “Vendor”, and the buying entity as the “Purchaser”. The object(s) to be supplied under these General Conditions is (are) hereinafter referred to as the Product.

II. OFFERS – Our offers are without engagement and not binding unless explicitly stated to be a binding offer.

III. ACCEPTANCE – Our written order confirmation determines the order. If a customer objects to the contents of the order confirmation he shall immediately forward a contest. Vendor acknowledges and agrees to be bound by and comply with all 1.) Terms and Conditions contained in any Purchase Order that has been previously provided, reviewed and accepted in writing by Vendor. 2.) Purchaser’s Supplier Requirements and Supplier Quality Assurance Manual that have been previously provided, reviewed and accepted in writing by Vendor. 3.) Terms and conditions of Purchaser’s end customer (the OEM) that have been previously provided, reviewed and accepted in writing by Vendor; as all of the foregoing may be amended from time to time and agreed in writing.

IV. DELIVERY - Deliveries are to be made both in quantities and at times specified in the purchase order or delivery order (Releases). Purchaser shall not change delivery schedules unless it is absolutely necessary. In the event that a change in the delivery schedules is necessary, Purchaser shall endeavor Vendor with reasonable time to fulfill a purchase order.

Any agreed trade term shall be constructed in accordance with the INCOTERMS In force at the formation of the contract. If no trade term is specifically agreed, the delivery shall be Ex Works (EXW).

If the Vendor anticipates that he will not be able to deliver the Product at the time for delivery, he shall notify the Purchaser In writing, stating the reason, and, if possible, the time when delivery can be expected. If the Vendor fails to give such notice, the Purchaser shall be entitled to compensation for any additional costs which he incurs, and which he could have avoided had he received such notice.

V. TRANSFER OF RISKS. SHIPMENT.- Shipment and transport of goods are at the customer’s costs and risk. The risk is transferred upon the customer at the time the goods leave our premises. This shall also apply if we have agreed to freight-free shipment by us in an individual case. If shipment is delayed because of circumstances caused by the customer, the risk is transferred upon the customer on the date the goods are ready for shipment.

VI. RESERVATION OF OWNERSHIP. We reserve ownership of all goods delivered by us until full payment of all claims from previous contracts or deliveries. The claims also include claims arising from checks and drafts, and claims from current account. If the customer is in default of payment or if it can be recognized that our claims for payment are at risk due to a customer’s inability to pay, we can request surrender of the goods under the reservation of ownership.

VII. WARRANTIES – Vendor represents and warrants to Purchaser that all Product (articles, machines, products, materials and/or services) covered by any Purchase Order (I) will conform to the specifications, drawings, samples or other description furnished or specified in writing by Purchaser and accepted by Vendor (collectively “Specifications”); and (II) will be merchantable and of good material and workmanship, and free from defect.

The reference samples (PPAP) submitted to the customer for inspection upon request are authoritative for quality and execution of the products.

If there is a defect for which we are responsible we have the right to remedy by either opting to make repairs or supply an item free of defects. The customer shall grant us the time and opportunity required for performing all repairs or replacement deliveries considered necessary; otherwise we shall be released of our liability for the resulting consequences. Only in urgent cases, where the safety of operations is at risk or if unreasonably large damages are to be prevented, does the customer have the right to repair the defects himself or by third parties and claim compensation of the necessary costs from us.

A customer’s warranty claim expires within 12 months from the date of delivery of the item.

The Vendor shall not be liable for any damage to property caused by the Product after it has been delivered and whilst it is in possession of the Purchaser. Nor shall the Vendor be liable for any damage to products manufactured by Purchaser, or to products of which the Purchaser’s products form a part.

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VIII. INSPECTION – REJECTION – At receipt of the goods at customer facilities, the customer shall check each delivery for completeness and damage to packaging. Complaints shall be forwarded in writing without delay. All goods delivered to and all work done for Purchaser hereunder shall be as specified by Purchaser and shall be subject to inspection, and approval or rejection by Purchaser, in whole or in part, at all reasonable times and places, before, during, and after manufacture or delivery. Any goods not conforming to the Specifications may be returned to Vendor at Vendor’s risk and expense upon writing approval by Vendor. Notwithstanding anything to the contrary, Purchaser shall have five (5) working days to inspect and reject any goods delivered pursuant to this agreement. Otherwise the shipment shall be considered as approved.

IX. DETERIORATION OF ASSETS. If we become aware that bills of the customer are protested, measures of compulsory execution are commenced against him, or that any other substantial deterioration of his assets occurs, we are entitled to request advance payments or security deposits including for claims for not yet due for payment, and to refuse the delivery further delivery until such time. If in spite of a reasonable period of grace and threat of refusal the customer does not comply with our request, we have the right to opt for withdrawal from the contract or claim compensation for damages.

X. TOOLS. Tools manufactured by us or for us under a business relationship with the customer are our property as a matter of principle, to the extent that the customer is only invoiced for a part of the production costs. Tools are only used for orders of the customer as long as he meets his obligations of payment and acceptance. Our obligation to retain the tools expires after two years after the last supply of parts for the tools.

XI. FORCE MAJEURE – “Force Majeure” shall mean any causes reasonably beyond the control and without fault or negligence of the party affected thereby which cannot be foreseen, or, if foreseeable, cannot be avoided, which occur after the effective date of the Order and which wholly or in substantial part prevent or delay performance of obligations under the Order. If due to Force Majeure a party is prevented from or delayed in performance and provided that such party promptly following the commencement of such Force Majeure notifies the other party, in writing, expressly claiming Force Majeure then the obligations of the party giving such notice shall be suspended to the extent made necessary by such Force Majeure and during its continuance provide the party invoking Force Majeure takes reasonable steps to mitigate the effect of such Force Majeure. A party sending a notice of Force Majeure shall, upon termination of such Force Majeure, promptly notify the other party in writing. If due to Force Majeure Vendor is unable to deliver the full quantity of the items purchased, Purchaser may, by notice to Vendor at any time, require Vendor to deliver such percentage of the lesser output as Vendor can reasonably deliver under the circumstances. Deficiencies in shipment, failures to ship when agreed, inability to receive due to suspension, or reduction of obligations for reasons or Force Majeure shall, at option, be made up in whole or in part even though subsequent deliveries occur after the delivery date. Purchaser shall exercise such option by written notice to Vendor.

XII. LIMITATION ON REMEDIES, LIABILITIES AND DAMAGES. A party’s (the “Responsible Party”) entire liability to the other party for any loss, liability or damage, including attorney’s fees, for any claim arising out of or related to any Purchase Order, regardless of the form of action, will be limited to the Responsible Party’s actual direct out-of-pocket expenses which are reasonably incurred by the other party and will not in any event exceed the total amount of purchases from any Purchase Order during the twelve (12) month period immediately preceding such claim. IN NO EVENT WILL A PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, HOWSOEVER ARISING OUT OF OR RELATED TO ANY PURCHASE ORDER REGARDLESS OF THE BASIS OF THE CLAIM.

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