

Sawyer Manufacturing Company's Terms and Conditions for Estimates and Sales.

1. AGREEMENT

These Terms and Conditions (these "Terms") apply to all estimates ("Estimate") made and sales agreements ("Purchase") entered into by Sawyer Manufacturing Company Inc. ("Sawyer") with a customer or their authorized agent ("Buyer") for goods and services ("Products").

Sawyer's agreement to sell or otherwise deliver any Products to the Buyer shall not be deemed or construed to be an acceptance of any of the Buyer's terms and conditions nor a waiver of any term or condition set forth in these Terms. Any additional or different terms in the Buyer's forms or other documents are hereby deemed to be material alterations of these Terms and notice of objection to them or rejection of them is hereby given by Sawyer.

Unless Sawyer and the Buyer enter into a separate written agreement, formally executed by Sawyer specifically waiving the terms set forth herein, the purchase of any Products by the Buyer shall be deemed an acceptance of these Terms. No term or provision in any documentation employed by or on behalf of the Buyer in connection with these Terms, regardless of the date of such documentation, will amend, revoke, modify, replace, supplement or otherwise affect these Terms, even if such documentation is received, acknowledged or accepted by Sawyer.

2. PRICES, TAXES

Estimate prices are stated in United States Dollars unless otherwise indicated. Nothing set forth in an Estimate by the Buyer shall modify or amend the prices, quantities, scope of Products, or delivery offered therein, unless such modification or amendment is expressly agreed to in writing by Sawyer prior to a Purchase. Sawyer provides no guarantee for the Estimate price (the "Price") and reserves the right to adjust the Price for any reason prior to accepting the Buyer's Purchase.

The Price, unless otherwise noted in the Purchase, is exclusive of any taxes (including, without limitation, sales, use, value added, goods and services, business, property (real or personal, tangible or intangible), license, documentation, registration, import, export, excise, franchise, stamp, or other tax, custom fees or tolls, levy, impost, withholding, fee, duty or other charge of any nature imposed by any governmental authority or other authority in any jurisdiction, and any and all fines, penalties, additions to tax, interest and other charges relating thereto (collectively, "Taxes"). All Taxes shall be paid by the Buyer in addition to the Purchase Price. If any payment by the Buyer is subject to withholding tax, the Buyer agrees to increase the amount of any such payment or pay an additional amount to the extent necessary to ensure that Sawyer receives the same amount it would have received if there had been no withholding tax. The Buyer shall deliver to Sawyer any certifications and other documents required to demonstrate eligibility and to benefit from any exemption or other relief from any Tax.

3. PACKAGING, SHIPPING

Sawyer shall pack all Products in accordance with all applicable regulatory requirements and its standard commercial practices. If the Buyer has any special shipping or handling instructions or requirements, the Buyer shall notify Sawyer in writing at the time of Purchase setting forth in detail any such special instructions or requirements. Buyer shall be solely responsible for any increase in cost and expense with respect to such special instructions or requirements.

The Price, unless otherwise noted in the body of Purchase or previously agreed upon in writing with Sawyer, does not include shipping or handling charges. Buyer shall incur both the cost and the risk for delivery of Products to their destination. Sawyer shall notify the Buyer when the Products are available at Sawyer's facility for pickup and the Buyer shall be responsible for arranging to have the Products picked up from Sawyer's facility. In addition to the foregoing, the Buyer shall at all times be responsible for completing any export documentation and for clearing Purchase through US Customs, if applicable.

In the absence of any specific instructions or requirements by the Buyer, Sawyer shall select the carrier and, at its discretion, may ship "collect", prepaid or subject to invoice payment terms; provided, however, Sawyer shall not be deemed to have assumed any liability in connection with such shipment, nor shall the carrier be construed as an agent of Sawyer.

4. DELIVERY, TITLE, AND RISK OF LOSS

The date of completion or shipment set forth on the Estimate ("Delivery Date") is based on the availability of materials and services and Sawyer's production capacity at the time the Estimate is submitted to the Buyer. Sawyer will use commercially reasonable efforts to meet the Estimate's Delivery, or the Delivery mutually agreed upon between Sawyer and the Buyer at the time of Purchase. Sawyer makes no guarantee of any such Delivery and hereby expressly disclaims any and all liability for any delay in delivery or shipment of Product, or for any damage suffered by the Buyer as a consequence thereof. The Buyer acknowledges that all Delivery Date are approximate and remain subject to change.

Delivery dates will be determined upon Sawyer's acceptance of the Buyer's Purchase and Buyer's delivery to Sawyer of all necessary information required to enable work to commence, together with any licenses and permits which may be necessary for completion of Purchase.

If the Buyer fails to pick up Products within five (5) business days or fails to provide a proper address for delivery, Sawyer shall be entitled to invoice the Buyer for Products and reserves the right to put Products in storage and charge the Buyer for such storage costs.

In the event Buyer elects to have Sawyer deliver Products, and unless otherwise agreed to in writing by the parties, delivery of all Products, whether new, repaired, or warranted, shall be deemed as FOB origin (UCC) for domestic shipments and EXW (ICC) for international shipments any of which may be made, at the sole discretion of Sawyer, in full or in part. The risk of loss or damage to Products shall pass to the Buyer upon Sawyer initiating shipment of a delivery of Products.

The Buyer must inspect the condition and quality of Products upon receipt, and any shipping damage, loss, or shortage, shall be reported to the carrier and described in detail on the Bill of Lading. In addition to the foregoing, claims for errors in shipment must be made in writing within two (2) business days after receipt of Products. In the event of an error in Products shipped, Sawyer, in its sole discretion, shall either (a) replace Products or (b) issue a credit to the Buyer. The Buyer shall promptly ship all nonconforming Products back to Sawyer for inspection prior to (i) any replacement being shipped or (ii) credit being issued with respect thereto. Sawyer reserves the right to ship replacements at the most economical rate. Should the Buyer request special packaging or handling for replacements, any additional costs incurred therewith will be billed to the Buyer and prompt reimbursement thereof shall be made to Sawyer.

Purchases will become complete and final upon acceptance of the Product by the Buyer or the Buyer's agent or once the Buyer takes Delivery of the Product or once the Product is placed in storage ("Purchase Completion"). Without exception, all Claims of corrections or modifications required for Product fit, form,

function, appearance, or otherwise deemed necessary (“Claims”) by the Buyer or any party associated with the Buyer must be made in writing within ten (10) business days after Purchase Completion at which time, Sawyer, at its sole discretion shall (a) enter into a written agreement with the Buyer to address the Claims in part or full or (b) find the Claims to be null and void. The Buyer shall provide Sawyer with (i) all requested evidence of the Claims, (ii) written original estimates for cost associated with the Claims, and (iii) allow access deemed necessary by Sawyer to investigate the Claims. Notwithstanding the foregoing, Sawyer shall have no obligation to the Buyer for either liability of loss in conjunction to any Claims nor reimbursement for the correction of any Claims without Sawyer’s expressed written consent and agreement prior to modification of the Product within the Claims period. Sawyer’s obligation to any aforementioned written agreement will not extend beyond the terms of the agreement regardless of circumstance unless a revised agreement is agreed upon and accepted in writing by Sawyer.

5. FORCE MAJEURE AND EXCUSABLE DELAY

Sawyer shall not be liable for any damages of any kind for delay or non-performance if such delay or non-performance is due directly or indirectly to:

- (a) the Buyer, including omissions or failure to act on the part of the Buyer, its agents, or employees; (b) an Event of Force Majeure, defined herein as including acts of nature, acts of public enemies, fires, floods or unusually severe weather conditions, strikes, lockouts, disputes with workers or other hostilities, embargoes, wars, riots or civil disturbances, epidemics or quarantine restrictions, delays or shortages of transportation, governmental action including the government’s denial or failure to grant an export license or other needed government authorization;
- (c) causes beyond Sawyer’s reasonable control, including severe accidents at Sawyer’s plant, unforeseen production or engineering delays or inability of Sawyer or its vendors to secure adequate materials, manufacturing facilities or labor; or (d) any other acts and causes not within the control of Sawyer, which by the exercise of due diligence and reasonable effort, Sawyer would not have been able to foresee, avoid or overcome.

Sawyer shall notify the Buyer of any delay or non-performance due to an excusable delay or Event of Force Majeure as soon as practicable. If such an event should occur, Sawyer’s period of performance shall be extended for the period equal to the duration of any such event. If the excusable delay or Event of Force Majeure should extend for more than three (3) months, Sawyer and the Buyer may mutually agree to terminate Purchase or any portion thereof impacted by the excusable delay or Event of Force Majeure, and the Buyer shall pay Sawyer for any Products delivered or services performed, any works in process, all materials purchased, any termination costs including vendor settlement expenses, and a reasonable profit on the terminated Purchase or portion thereof, all in accordance with the agreed upon payment terms thereof.

6. PAYMENT

The Buyer shall pay for all Products delivered and services performed in accordance with the agreed upon payment terms set forth in the Purchase upon receipt of Sawyer’s invoice (the “Payment Due Date”). Payment shall be deemed to have been made when a check is received by Sawyer or payment is received by an electronic transfer in Sawyer’s bank account for the full amount due.

Sawyer reserves the right to assess interest on any late payments, with any such interest accruing from the Payment Due Date until receipt of payment in full at the lesser of (a) one and one-half percent (1.5%) per month compounded monthly, or (b) the maximum rate permitted by law. Sawyer further reserves the right to

charge the Buyer for any collection or litigation expenses, including reasonable attorney's fees incurred by Sawyer in the collection of any amount due from Buyer, including such late payment. In addition to any remedies under law or in equity, Sawyer may, in its sole discretion, suspend future deliveries or services until all delinquent payments are received, and may require an advance payment or milestone payments prior to beginning any future performance. Sawyer may require the Buyer to obtain a letter of credit for international Purchases. All payments hereunder shall be paid without any deductions, set-offs, or counterclaims including for any Taxes.

7. RETURNS

The Buyer may return customarily stock Products within thirty (30) days from the original Purchase date with satisfactory proof of Purchase and a fully completed Sawyer's Return Form, provided that such Product: (a) is in new condition, suitable for resale in its undamaged original packaging and with all its original parts and documentation included therein and (b) has not been used, installed, modified, rebuilt, reconditioned, repaired, altered or damaged.

Special Purchases, custom or semi-custom Purchases, or Purchases consisting of non-stock items are non-returnable, non-refundable, and non-cancellable.

Products not meeting (a) and (b) set forth above in this Section, will be evaluated on an individual basis for possible return only after Buyer has contacted Sawyer's authorized representative in writing for prior written permission and such representative has expressly provided written approval for such Product(s) to be returned to Sawyer, to be further evaluated upon receipt.

Authorized returns will be issued a credit memoranda once received and inspected by Sawyer subject to the following deductions, as applicable: (a) cost of putting items in salable condition; (b) transportation charges, if not prepaid; and (c) handling and restocking charges.

Products may be rejected for return at the sole discretion of Sawyer for which the Buyer will be provided a written explanation and the option to receive Products back. In the event the Buyer elects to receive Products back, Buyer shall be solely responsible for the return shipment and payment of all fees and expenses associated therewith. Products rejected for return will become the property of Sawyer if not picked up or return shipped by the Buyer within five (5) business days of Buyer's receipt of Sawyer's written explanation.

8. WARRANTY

Subject to Article 9 hereof, Sawyer warrants that Products manufactured by Sawyer shall be free from defects, including latent defects, in material and workmanship under normal use and service when operated in accordance with Sawyer's operating instructions or as intended (this "Warranty") for the period agreed upon by Sawyer and the Buyer at the time of Purchase or as advertised by Sawyer (the "Warranty Period"). Any such Warranties will begin at the time of Product shipment or service completion. In the instance where the Buyer requests Products be stored by Sawyer, any such Warranty Period will begin upon such storage.

Sawyer's obligation and the Buyer's sole remedy under the Warranty shall be limited to, at the sole discretion of Sawyer, the repair or replacement of the nonconforming warranted Product, or any part thereof.

Notwithstanding the foregoing, Sawyer makes no Warranty in the event of Force Majeure, for ordinary wear and tear, or as to defects arising from or connected with the Buyer's or any third party's (a) improper receipt, transport, handling, storage, maintenance, testing, installation, operation or use of any warranted Product;

or (b) alteration, modification, maintenance, overhaul, repair, neglect or foreign object damage to any warranted Product. Sawyer shall have no obligation to the Buyer for any failure of any Product, to the extent such failure is aggravated by Buyer's or any third party's continued use after discovery of such failure or nonconformance. Notwithstanding the foregoing, the Warranty does not apply to consumable items such as hardware and like items, or spare and wear parts.

The Buyer shall provide written notice of the Product's alleged defect within the Warranty Period, and ensure Product is properly packaged and returned to Sawyer with transportation and insurance prepaid within ten (10) business days of such written notice.

With the exception of the express warranties contained herein, this warranty is exclusive and in lieu of all other warranties, whether written or oral, express, implied or statutory, strict liability, tort (including negligence), equity or otherwise, including any implied warranties of merchantability, infringement or fitness for particular purpose of all products provided by Sawyer, and Sawyer expressly disclaims and the buyer waives all such warranties and any other warranty, to the fullest extent permitted by law, that any product provided hereunder is error free, will operate without interruption, or is compatible with all equipment and other products.

9. WAIVER OF CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY

Notwithstanding anything herein to the contrary, and regardless of the number of claims or the form or cause of action, whether in contract, equity, statute, tort, negligence (active or passive) or otherwise, Sawyer shall not be liable for any special, indirect, incidental, punitive, exemplary, or consequential damages of any kind, and shall not be liable to the buyer for losses of use, data, profit, revenue, income, business, anticipated savings, reputation, and more generally, any losses of an economic or financial nature, regardless of whether such losses may be deemed as consequential or arising directly and naturally from the incident giving rise to the claim, and regardless of whether such losses are foreseeable or whether a party has been advised of the possibility of such losses. Excluding gross negligence or willful misconduct, Sawyer's total aggregate liability arising out of or in connection with a purchase shall in no event exceed the price of products directly purchased by the buyer under such purchase giving rise to the claim. This limitation of liability shall apply notwithstanding any failure of the essential purpose of any limited or exclusive remedy to the extent these terms contain any specific remedies provided by Sawyer to the buyer, regardless of form. Such remedies shall be provided by Sawyer on a sole and exclusive basis and in lieu of any other remedies, damages, or losses.

10. PROPRIETARY INFORMATION

Any potential Buyer may disclose the information presented by Sawyer in Estimates to appropriate persons within their organization solely on a need-to-know basis for evaluation purposes. Such persons shall hold Sawyer's information proprietary and strictly confidential with precautions no less thorough than those with which such Buyer would manage proprietary or confidential information within their organization.

During negotiations of the Buyer's Purchase, Sawyer and the Buyer, may exchange proprietary and/or confidential information not generally known to the public ("Proprietary Information"), but shall do so only to the extent and as reasonably required and necessary to determine and perform their obligations under the Purchase. Any document marked "Confidential" or "Proprietary" and all copies made thereof shall be returned by the receiving party ("Recipient") of Proprietary Information to the disclosing party ("Owner")

upon completion of the purpose for which they were provided or be promptly destroyed by Recipient upon the Owner's direction.

Neither Sawyer nor the Buyer shall be liable for any disclosure if the Proprietary Information: (a) is generally available to the public (or becomes so) without breach of Recipient; (b) was available to Recipient on a non-confidential basis from a source that had the right to disclose such information; (c) was rightfully in the possession of Recipient prior to receipt from the Owner; or (d) was independently developed without use of the Owner's Proprietary Information.

No license under any trademark, patent, copyright, mask protection right, or any other intellectual property right, is either granted or implied by the conveying of Proprietary Information to any party herein. No use of any Sawyer trademark, service mark, trade name, design, logo, or other trade dress may be made without the prior written consent of Sawyer, of which Sawyer shall be under no obligation to provide. Any Sawyer mark or logo existing on any Product must not be: (i) altered or modified in any manner; (ii) combined with other elements; or (iii) rearranged, without the prior written consent of Sawyer, of which Sawyer shall be under no obligation to provide.

None of the Proprietary Information which may be disclosed or exchanged by the Owner shall constitute any representation, warranty, assurance, guarantee, or inducement of any kind to Recipient, and in particular with respect to the non-infringement of trademarks, patents, copyrights or any intellectual property rights, or other rights of third persons other than the rights expressly granted herein.

The Buyer agrees that it will not attempt, nor will it direct or employ others to attempt, to reverse engineer Products, subassemblies and/or software that is developed, manufactured or sold by Sawyer as a component of such Products or in connection otherwise with such Products.

11. INTELLECTUAL PROPERTY RIGHTS

Subject to the conditions herein, Sawyer will defend any action brought against the Buyer, only to the extent any such action is based on a claim that Products supplied by Sawyer infringe upon an existing Canadian or U.S. patent issued prior to the date of the applicable Purchase.

Subject to the conditions herein, Sawyer will indemnify the Buyer against the costs and damages finally awarded in any action arising directly out of a claim of infringement of such Canadian or U.S. patent, provided that: (a) Sawyer shall be notified in writing by the Buyer within five (5) days of the receipt of any notice of such claim; (b) Sawyer shall have sole control of the defense of any action and all negotiations for its settlement or compromise, and the Buyer shall cooperate with Sawyer and take all required action to assist Sawyer in such defense; (c) the claim relates directly to the use of Products in a manner or for a purpose expressly specified by Sawyer; (d) the claim does not arise from the alteration or modification of Products or the use of Products in combination with the products or services of any party other than Sawyer; (e) the claim is not related to aspects of Products that were made in accordance with materials, designs or specifications furnished or designated by the Buyer; and (e) that the Buyer shall not have made and shall not make any admissions in respect of such alleged infringement.

The sale of Products by Sawyer does not convey any license by implication, estoppel, or otherwise, under patent, copyright, trade secret, trademark, or any other intellectual property right covering combinations of said Products with other devices or elements unless otherwise provided for by a separate agreement between the Parties.

Notwithstanding the foregoing, Sawyer shall not be liable for, and the Buyer shall indemnify, defend and hold harmless Sawyer against, any claim based upon: (a) the combination, operation, or use of any Products supplied hereunder with, equipment, devices, or software not supplied by Sawyer; (b) services offered or used by the Buyer through operation of any Products or revenue received by the Buyer from its services; (c) alteration or modification of any Products supplied hereunder; or (d) Sawyer's compliance with the Buyer's designs, specifications, or instructions with respect to the Products.

Notwithstanding any other provisions hereof, Sawyer shall not be liable for any claim based on the Buyer's use of Products as shipped if Sawyer has informed the Buyer of modifications or changes in Products required to avoid such claims and offered to implement those modifications or changes, and such claim would have been avoided by Buyer's implementation of Sawyer's suggested modifications or changes.

In the event Sawyer determines prior to Delivery that alternations to a Product are necessary to comply with specifications, changed safety standards, governmental regulations or otherwise to make such Product non-infringing with respect to any intellectual property right or proprietary interest, or to otherwise improve a product, such alterations may be made at any time by Sawyer without prior notice to or consent of the Buyer and such altered Products shall be deemed fully conforming.

To the extent Products or any part thereof become the subject of a claim for infringement or the use of Products or any part thereof is enjoined in an infringement suit, Sawyer may, at its sole option and expense, (a) defend the claim, (b) procure for the Buyer the right to continue using said Products, (c) replace or modify Products so that they and the use thereof become non-infringing, or (d) remove said Products and refund the purchase price and the transportation costs thereof, less a reasonable amount for depreciation.

The foregoing states the entire liability of Sawyer with respect to any infringement or claim of infringement of any patent, copyright, trade secret, trademark, mask work or other industrial or intellectual property right. The foregoing indemnity is granted to the buyer solely for its benefit.

12. GOVERNING LAW

These Terms and any action related hereto shall be governed, controlled, interpreted, and defined by and under the laws of the State of Oklahoma, USA, without regard to rules on conflicts of law and provisions thereof. The Parties specifically disclaim application of the U.N. Convention on Contracts for the International Sale of Goods (1980) or any subsequent revision(s) thereto.

13. DISPUTES

In the event of any dispute arising out of or in connection with these Terms, such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("Rules of Arbitration") by one or more arbitrators appointed in accordance with said Rules of Arbitration. The place of arbitration shall be Tulsa, Oklahoma, USA. The language of the arbitration shall be English. The arbitral award shall be final and binding upon the Parties.

14. INSURANCE

Sawyer and the Buyer shall each carry insurance coverage in types and amounts adequate to protect against any losses, damages, liabilities, or expenses that could reasonably be incurred under a Purchase, and each party shall keep and maintain such insurance coverage in effect until the conclusion of Purchase.

15. MODIFICATION

Any modification of these Terms shall be valid only if in writing and signed by the authorized representatives of both Sawyer and the Buyer.

16. ASSIGNMENT

Neither Party may assign or delegate a Purchase or any of its rights, duties, or obligations regarding such Purchase to any other party without the prior written consent of the other party. Any attempt by either party to assign or delegate any of its rights, duties, or obligations regarding a Purchase without such consent shall be void and of no effect.

Notwithstanding the foregoing, Sawyer shall be permitted to subcontract its rights, duties or obligations regarding a Purchase to another division, affiliate or wholly owned subsidiary of Sawyer.

Sawyer shall have the right to assign a Purchase to any successor by way of merger or consolidation or the acquisition of substantially all of the entire assets of Sawyer; provided, however, that such successor shall assume all of the obligations of Sawyer under such Purchase.

Nothing in this provision is intended to preclude Sawyer from awarding routine subcontracts or purchase orders to vendors or other companies in part or in full to complete Sawyer's obligation to the Buyer.

17. BUYER'S REPRESENTATIONS

The Buyer represents that at the time of Purchase the Buyer is solvent. Buyer agrees to promptly deliver Sawyer written notice of any changes in the form of ownership of the Buyer's business prior to conclusion of Purchase, such notice to be provided within five (5) days of any such changes.

18. NO THIRD PARTY BENEFICIARIES

Except as expressly provided herein, these Terms are for the sole and exclusive benefit of the Parties hereto and their respective successors and permitted assignees, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever.

19. WAIVER

If either party, at its option, agrees to waive any of these Terms, then such waiver shall not for any purpose be construed as a waiver of any succeeding breach of the same or of any other of these Terms; nor shall such a waiver be deemed as a course of conduct.

20. SEVERABILITY

If any of these Terms are at any time held to be invalid or unenforceable, then such term or condition shall be construed as severable and shall not in any way render invalid or unenforceable the remainder of these Terms, which shall remain in full force and effect.

21. PUBLIC DISCLOSURE

Except as otherwise required by law, or to obtain necessary licenses or governmental approvals, Buyer shall not issue any news releases, articles, brochures, advertisements, or other information releases relating to the subject matter of a Purchase without the prior written approval of Sawyer.