



DAVLYN GROUP (hereinafter referred to as "Seller") agrees to sell and supply to Buyer and Buyer agrees to purchase and accept the products (individually or collectively referred to herein as the "Product") described in any purchase order submitted to Seller by Buyer, or which are otherwise ordered by Buyer at any time after these Terms and Conditions of Sale (the "Terms") have been delivered to Buyer in connection with any credit application, order, purchase order, acknowledgement or confirmation of receipt of order or other communication between Buyer and Seller. Any such sale transaction between Buyer and Seller shall be subject to the following terms and conditions:

Acceptance

THESE TERMS EXPRESSLY LIMIT ACCEPTANCE TO THE TERMS AND CONDITIONS SET FORTH HEREIN, AND CONSTITUTE THE SOLE AND EXCLUSIVE AGREEMENT BETWEEN THE PARTIES, AND SUPERSEDE ANY OTHER PRIOR, CONTEMPORANEOUS AND/OR SUBSEQUENT OFFERS, COUNTEROFFERS AND/OR PROPOSALS BY BUYER, CONCERNING THE SUBJECT MATTER HEREOF. These Terms shall be deemed to be accepted and shall be a binding contract for the sale of the Product upon the first to occur of the following events: (i) Buyer or its agent executing and delivering to Seller a copy of any acknowledgement of order or other written communication containing or including these Terms; or (ii) Buyer submitting any order for Product after having received a copy of these Terms, which order is accepted by Seller. Seller shipping or delivering the Product to Buyer after Seller's receipt of Buyer's order shall be deemed acceptance of Buyer's order subject to these Terms. These Terms shall constitute the sole and exclusive agreement between Seller and Buyer.

Packing And Pricing

- A. Product shall be suitably packed and shipped as designated by Seller in accordance with the requirements of the carriers.
- B. Prices for Products are F.O.B. Seller's Facilities in accordance with the Uniform Commercial Code in effect in the Commonwealth of Pennsylvania unless otherwise specified in writing. With regard to international shipments, prices for Products are EXW (Incoterms-2010) Seller's Facilities.
- C. Unless otherwise specifically set forth herein or in any purchase order accepted by Seller, the stated price shall not include charges for any duties, levies, freight charges, packing charges, installation charges and any other charges whatsoever in connection with the Product, which charges shall be Buyer's sole responsibility.
- D. Quotations are subject to change by the Seller without notice and cover only the specified quantity. Due to conditions affecting prices, Davlyn Group will accept orders with the understanding that Davlyn Group reserves the right to change the price at any time, or from time to time, as to the whole, or any part of the order then unfilled. Delivery of any part of an order at the price stated thereon shall be without prejudice to Davlyn Group's right, as stated, to change the price as to any remaining part of the order.

Delivery And Risk Of Loss

Any shipping or delivery dates set forth in the purchase order or any acknowledgment of the order are the best estimate of actual shipment or delivery, but are not guaranteed and may change based upon



inventory, production and shipping contingencies. Seller shall not be liable for any delays in shipment or delivery, or for any failure to deliver, arising from any foreseeable or unforeseeable events, occurrences or contingencies, including but not limited to fire, flood, embargo, labor or equipment problems, strike, shortages of materials, failure to secure materials from suppliers, government restrictions, any event or occurrence constituting "force majeure," or any other event or circumstance beyond Seller's control which shall prevent Seller from shipping Product or making the deliveries in the normal and usual course of business. Buyer agrees to accept full delivery for any goods purchased under a blanket purchase order within one year from the date of such order, for which Buyer has not requested shipment by Seller.

Payment

Unless otherwise specified in a separate written agreement between Seller and Buyer, payment by Buyer shall be due 30 days after the date of shipment of the Product by Seller. Time of payment is of the essence. Any amounts not paid within such 30 days shall bear interest at a rate of one and one half percent (1 ½%) per month or the highest legal rate, whichever is lower, on all past due accounts. If Seller is required to take any action or to file any legal proceeding against Buyer to collect payment, Buyer shall pay or reimburse Seller for any and all costs and expenses of collection, including, without limitation, reasonable attorneys' fees, incurred by Seller. Please note that a service fee of 3% will be charged for any amounts paid by credit card, where permitted by applicable law.

Warranty

- A. Seller warrants to Buyer for a period of one year after shipment that all Products shall be free from defects in materials and workmanship. In the event Buyer and Seller have agreed on the product construction as detailed in a product print or drawing, Seller warrants that the Product is constructed according to the print or drawing.
- B. Buyer shall notify Seller, in writing, of any rejection for failure to conform to these Terms, giving detailed reasons for rejection. Failure of Buyer to reject any Product within 30 days after receipt of Product shall constitute acceptance.
- C. If such nonconformity is claimed by Buyer within such 30 days, Buyer shall allow Seller a reasonable time to verify and remedy the defect. Buyer shall render necessary assistance to Seller, and shall furnish adequate means for operating and testing Products.
- D. If such nonconformity is verified and Seller does cure the nonconformity, Buyer shall pay the full price for the Product as set forth in Seller's acknowledgement of Buyer's order.
- E. Any action on a breach of Seller's obligations under these Terms must be commenced within one year of shipment date.
- F. Seller's warranty does not apply to any Products to the extent they have been subject to (1) alteration or modification by Buyer or third parties; (2) use and/or abuse other than normal wear and tear; (3) improper use, storage, installation, or repair; (4) installation or repair by unauthorized service personnel; or (5) tampering, negligence, or damage from mishandling or accident. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER WITH RESPECT TO ANY DEFECTIVE PRODUCT EXCEED THE ACTUAL PURCHASE PRICE PAID BY BUYER TO SELLER WITH RESPECT TO SUCH PRODUCT, AND IN NO EVENT SHALL SELLER BE LIABLE UNDER THESE TERMS OR ANY OTHER AGREEMENT TO BUYER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES,



INCLUDING THE LOSS OF BUSINESS
OPPORTUNITIES AND/OR BUSINESS

INTERRUPTION OR LOST PROFITS, HOWEVER CAUSED, WHETHER AS A CONSEQUENCE OF THE
BREACH OF AN AGREEMENT, THE NEGLIGENCE OF SELLER AND/OR ITS EMPLOYEES OR AGENTS,
OR OTHERWISE.

- G. Suggestions and advice by Seller or its representatives for the use of Products are furnished gratuitously and are based upon information believed to be reliable. Buyer's use of or reliance upon the same shall be at Buyer's sole risk. Seller does not test or validate any Product for any specific use, and Seller disclaims all warranties and responsibility with respect to any failure of any Product for any use or purpose, except where arising solely from the failure of such Product to meet Seller's published specifications with respect thereto. SELLER'S SOLE WARRANTY AND LIABILITY WITH RESPECT TO THE SALE OF PRODUCT TO BUYER AND USE OF PRODUCT BY BUYER IS HEREIN SET FORTH IN ITS ENTIRETY. Any agreement between Buyer and Seller concerning advice or assistance given to Buyer by Seller for a separate fee would be contained only in a separate written agreement.
- H. THE WARRANTY SET FORTH IN THIS SECTION IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANT-ABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Cancellations

In addition to recovery of any other damages that may be incurred and that may be recoverable at law by reason of Buyer's breach of this Agreement, orders cancelled by Buyer at any time prior to delivery are subject to charges for all costs and liabilities incurred by Seller up to such time Seller is notified in writing of intent to cancel.

Intellectual Property

Any and all models, drawings, sketches, plans and other information supplied by either party to the other shall remain the property of the party who shall have supplied it. The other party may not use any such material or information except with respect to the products and/or services that are the subject of a sale transaction under these Terms. Any product or service sold hereunder shall not constitute a license to use any of the proprietary rights of Seller. Any intellectual or industrial property rights of whatever kind created by, relating to, or obtained through the production of Product covered by these Terms, and any feedback or suggestions provided by Buyer to Seller with respect to the Product or improvements relating to the Product, shall belong to and remain the sole property of Seller. Seller retains title and all associated rights to any of its intellectual property used in connection with the Product or supplied to Buyer, including trademarks, trade names, copyrights, patents, product packaging, associated markings, advertising, marketing materials, manuals, specifications and designs. All such intellectual property, including copies thereof (except to the extent affixed to the Product), shall be returned upon Seller's request. No drawings, specifications or other information provided by Buyer to Seller shall be deemed to be confidential information unless specifically designated as confidential in writing by Buyer. Buyer further warrants that the Products ordered herein and any materials, supplies or other articles furnished to the Seller to facilitate the completion of any order, do not infringe any United States or foreign patents and the Buyer, upon due notice and at its own expense, will defend any suit or action which may be instituted against the Seller for the alleged infringement of any patent or other

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proprietary right involving any of Product covered by these Terms, and the Buyer agrees to pay all costs (including attorney's fees), damages and profits recovered in any such suit or action.

Termination

Seller may (without prejudice to its other rights or remedies) terminate or suspend Seller's performance of the whole or any outstanding part of any order while investigating any claim relating to prior shipments (under any invoice or order) of Product or in the event of any of the following circumstances: (i) Buyer fails to take delivery of or to pay for the Product as required herein, or is in breach of any of these Terms or any other obligation or contract between Seller and Buyer; (ii) Buyer becomes bankrupt or insolvent or if a receiver takes possession of any material part of Buyer's assets; or (iii) reasonable grounds for insecurity arise with respect to the performance by Buyer of its obligations under these Terms or any order, and Seller so notifies Buyer; (iv) Seller is unable to perform its obligations as a result of causes beyond its reasonable control, including, without limitation, failure of suppliers or subcontractors, strikes, shortages of labor or materials, acts of God, government restrictions, wars, insurrections or terrorist activities.

Applicable Law

This Agreement shall be governed by the laws of the United States and the Commonwealth of Pennsylvania, without regard to any conflicts-of-law principle that would require or permit the application of the substantive law of any other jurisdiction. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Buyer agrees to use the Product provided hereunder solely for proper business purposes, and to use, handle and dispose of the Product in accordance with all applicable federal, state and local laws and regulations, including but not limited to all laws that may be applicable to Buyer. Any taxes, excises, or fees whatsoever of any national, state, provincial or local government or any of their political subdivisions presently existing or hereinafter arising in connection with the manufacture and sale of the Product pursuant to any order by Buyer or otherwise subject to these Terms will be paid by Buyer.

Liability/Indemnity

Buyer acknowledges that Seller has no control over and is not responsible for the manner in which the Product will be used. Buyer, therefore, agrees to protect, defend, reimburse, indemnify and hold Seller free and harmless at all times from and against any and all claims, liability, expenses, losses, demands, damages, fines, causes of action and costs (including attorney's fees) of every kind and character from any cause whatsoever made, incurred, sustained, or initiated by any party hereto or any third party, any party acquiring an interest hereunder, any agent or employee of any parties hereto or third parties, or of any party whosoever, or any governmental agency arising out of, incident to, or in connection with any order subject to these Terms, the Product, the use, handling, storage or disposition of the Product, the performance or non-performance of any work or services under these Terms or any order, or breach of these Terms, excluding only claims arising out of the gross negligence or willful misconduct of Seller.

Amendments

NO AGREEMENT OR UNDERSTANDING TO MODIFY THESE TERMS SHALL BE BINDING UPON SELLER UNLESS MADE IN WRITING AND SIGNED BY AN AUTHORIZED OFFICER OF SELLER.



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Compliance

- A. Buyer acknowledges that Seller has informed it that US law and US Export Administration Regulations govern, and may prohibit the re-export or other disposition of Product and related technical data received by Buyer or its customers without prior US government approval.
- B. Buyer agrees that diversion of Product from destinations identified in the Shipper's Export Declaration constitutes a fundamental and material breach by Buyer under these Terms. If Products are diverted from intended destinations, the sale may be voided in the sole discretion of Seller, and all right, title and interest in Product shall revert to Seller. In the event of such breach, Buyer shall be liable to Seller for all costs, fees and expenses incurred by Seller in connection with recovery of Product, including reasonable attorney fees.
- C. Buyer agrees and warrants that in performance of its Obligations under these terms and/or in connection with any order submitted to Seller, it will comply with the US Foreign Corrupt Practices Act and all similar laws that may be applicable to any actions or dealings by Buyer, its employees, agents or contractors.

