

EBERHARD MANUFACTURING COMPANY

TERMS AND CONDITIONS

Prices, terms, designs and conditions of sale subject to change without notice.

CONSTRUCTION: Acceptance of any order by Seller is based upon the following terms and conditions, being the only terms and conditions applicable to the transaction, and is expressly conditioned on the Buyer's assent hereto. All inconsistent or additional terms in Buyer's purchase order are hereby rejected. Any terms, conditions or provisions not addressed directly herein shall be viewed as not being applicable to the sale.

MODIFICATION: No representative of Seller is authorized to make any oral commitments, promises, warranties, representations or modifications of these terms and conditions and no terms and conditions requested or specified through any format submitted before or after the quotation, acknowledgment or sale shall be valid unless a copy of Seller's "Modification of Terms and Conditions of Sales" form has been signed by the Managing Director of Seller and is in the possession of Buyer.

MINIMUM INVOICE CHARGE: The minimum single-order charge shall be \$250.00 net and single line item charge shall be \$50.00 net.

BIDS AND QUOTATIONS: All bids and quotations are firm for thirty (30) days only.

All bids, quotations and prices are subject to all federal, state and local taxes where applicable and such taxes will be added to the invoice as a separate charge. Automotive parts designated "T" are subject to Federal Excise Tax, unless Exemption Certificate is furnished.

TERMS OF PAYMENT: 1% 15 Days or Net 30 Days..

All invoices are due and payable within 30 days from invoice date and discounts will be allowed only as set forth above

Seller reserves the right to require payment in advance in any instance where in Seller's sole discretion it is deemed necessary

PACKING AND SHIPPING TERMS: All orders are F.O.B. Seller's plant, Cleveland, Ohio, unless specified otherwise on Seller's quotation or order acknowledgment.

All products will be packed as deemed proper by Seller unless specified otherwise on Seller's quotation or order acknowledgment. Any special packaging required may result in an additional handling and packing charge.

Seller is not responsible for delays of any carrier, damage to goods in transit, or any loss occasioned after a shipment has been delivered to the carrier and receipted for as being in good order.

Buyer assumes sole responsibility for filing and prosecuting claims against the carrier for goods lost, damaged or destroyed in transit.

Seller accepts no responsibility for extra freight charges resulting from split shipments.

Claims of shortages in shipment not chargeable against the carrier will not be considered by Seller, unless written notice is given to Seller within ten (10) days from date of receipt of merchandise.

All shipments are subject to a plus or minus factor of 5% of the original quantity ordered.

DELAYS: Seller shall not be liable for any delay in the performance of this contract, or in the delivery or shipment of goods, or for any damages suffered by Buyer by reason of such delay, regardless of the cost.

LIMITED WARRANTY: For a period of 1 year from the date of sales, Seller warrants its products to the original purchaser to be free from defects in materials and workmanship, subject to the following terms and conditions:

- a) The products have not been subject to abuse, neglect, alterations, accident, improper installation or servicing, or use in violation of any instructions which may be provided;
- b) Notice of any and all defects in materials and workmanship is given to Seller, in writing no later than 1 year after the date of sale; and
- c) Examination discloses, in the judgment of Seller, a defect in materials or workmanship which developed under normal installation, use and service.

Seller does not assume the cost of removal and/or installation of the products; the cost of returning any product to its plant for repair or replacement, or any other incidental costs which may arise as a result of any defect in material workmanship.

THE LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ANY WARRANTY IMPLIED BY LAW, INCLUDING WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED AND EXCLUDED FROM THIS CONTRACT. NO REPRESENTATIVE OR PERSON IS AUTHORIZED TO GIVE ANY OTHER WARRANTY OR TO ASSUME FOR SELLER ANY OTHER LIABILITY IN CONNECTIONS WITH PRODUCTS SOLD BY SELLER. SELLER WILL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.

EXCLUSIVE REMEDY AND RETURN PROCEDURE: As the sole and exclusive remedy under the foregoing warranty Seller will, without charge, repair or replace, at its plant, products found to be defective in materials or workmanship within the warranty period set forth above or, at its operation, refunded the purchase price to Buyer.

No product sold by Seller may be returned for credit unless written authorization has been given by Seller in advance.

Any freight paid by Seller will be deducted from the amount of credit issued, except in the case of defective parts.

Once authorization is obtained for the return, Seller must receive the returned parts and quantities within thirty (30) days, or the authorization is void and a subsequent authorization will be required.

All merchandise returned must be identified as to the original date of purchase, purchase order number, and carrier used to return the material.

The return of obsolete, discontinued, modified, or special parts or products will not be accepted by Seller, Merchandise returned in unsaleable condition will not be acceptable.

CANCELLATIONS: Where special or modified components are involved Seller reserves the right to charge for all work completed or materials purchased when an order is cancelled or reduced prior to the acknowledged shipping date.

A service and handling charge of 15% of net billing will be assessed for any returns, adjustments, or cancellations except in the case of material found to be defective by Seller.

Seller reserves the right to assess an additional cancellation charge, in addition to the 15% service and handling charge, in the event that the cancellation results in Seller exceeding its normal stock requirements of the product cancelled.

Prices are subject to change in the event Buyer revises the original quantity ordered.

PATENT INFRINGEMENT: Since Seller has no control over the ultimate use to which its products are subjected, nor to the combination of its products with other products, nor to the alteration of its products by the Buyer, the Buyer shall indemnify and save Seller harmless from and against any claim, expense, loss, or liability, for infringement of any patent, trademark, or copyright, resulting from or arising in connection with the Buyer's design specifications or the sale or use of any item covered by this contract, or Seller's compliance with Buyer's instructions. Buyer shall promptly pay to secure any judgment or recovery which may be obtained in connection with any of the aforesaid and pay Seller and reasonable costs and expenses incurred by Seller in evaluating and defending any such claim in any judicial administrative action or proceeding, or in any negotiations in connection therewith.

NO INDEMNIFICATION: In no event will Seller indemnify or hold Buyer harmless, from or against any loss or damage, notwithstanding any indemnity or hold harmless provisions to the contrary in Buyer's purchase order.

EFFECTIVE DATE: The above terms and conditions shall be effective June 27, 2005 and take precedence over and supersede any previous agreements between the parties.

EBERHARD MANUFACTURING COMPANY / DIVISION OF THE EASTERN COMPANY

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REV: 8/4/06