



STANDARD TERMS AND CONDITIONS OF SALE

SP Scientific

GOVERNING PROVISIONS

Unless otherwise superseded by subsequent written agreement between SP Industries and its customer or modified by the attached proposal or specification of which these Standard Terms and Conditions of Sale are a part, these Standard Terms and Conditions shall constitute an integral part of any written or verbal contract resulting either from this proposal or any other written or verbal correspondence between SP Industries (hereinafter called "Seller") and its customer (hereinafter called "Buyer"). These Standard Terms and Conditions of Sale are incorporated by reference into every proposal submitted by Seller to a Buyer or contract assignment received and accepted by Seller. Any waiver or modification of these terms requires written approval by Seller.

Failure of the Seller to object to provisions contained in Buyer's purchase orders or other communications shall not be deemed a waiver of the Standard Terms and Conditions of Sale hereof nor Seller's acceptance of Buyer's provisions. In the absence of such notification, the Buyer's acceptance of the products or services sold hereunder shall be equivalent to the Buyer's assent to the Standard Terms and Conditions of Sale herewith. The printed terms herewith combined with the other writings entered into between the parties are the entire contract and all of the terms thereof. No oral statements, warranties, representations, stipulations or terms have any binding effect on the any part of the contract whatsoever. The waiver by Seller of any term or condition herein or the acceptance of other terms and conditions shall in no circumstance be held to a general waiver or specific waiver of any other Standard Terms or Condition of Sale.

ACCEPTANCE

- (a) Seller shall not be subject to any contractual obligations whatsoever until a formal written purchase order is received by Seller at Warminster, Pennsylvania, and a formal written acceptance thereof is sent by Seller.
- (b) All contracts made by Seller shall be deemed to have been made at Warminster, Pennsylvania, and shall be interpreted solely under Pennsylvania law.
- (c) Unless withdrawn sooner, this proposal is open as the basis of any offer to be made for a period of thirty (30) days from the date of issuance of such proposal, unless otherwise indicated in this proposal, and will automatically become invalid at the end of such period.
- (d) Any offer made upon this proposal shall be deemed to incorporate these Standard Terms and Conditions of Sale as if they were expressly made a part of such offer, and any contract made by Seller by accepting such offer shall be deemed to include these Standard Terms and Conditions of Sale as fully and completely as if said Standard Terms and Conditions of Sale were expressly made a part thereof
- (e) Orders are accepted subject to strikes, accidents, and other causes beyond Seller's control. Seller will not be liable for any delay in delivery or for any damages suffered by the Buyer for reason of such delay.
- (f) Failure of the Buyer to object in writing within five (5) days of receipt thereof to Standard Terms and Conditions of Sale contained in the Seller's acceptance and/or acknowledgment, or other communications, shall be deemed an acceptance of such Standard Terms and Conditions of Sale by Buyer.
- (g) If any Seller's Standard Terms and Conditions of Sale differ from, or are in addition to, the terms of the Buyer's purchase order, then Seller's acceptance of the order is made conditional on Buyer's assent to the differences and additions.

Corporate Office

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CANCELLATION

Any contracts and orders received by Seller shall be binding on the parties and cancellation, suspension, or modifications will be accepted only upon terms that will indemnify Seller against all losses and damages, and provide a pro rata increment of profit. Orders may be cancelled only with the written consent of the Seller.

CHANGES, IMPROVEMENTS AND SUBSTITUTES

No change in an order shall have any force, effect or validity whatsoever except with Seller's written consent, and under conditions which will indemnify Seller for costs of such changes. Detailed descriptions of changes must be submitted by the Buyer in writing.

No amendment or modification of any contract resulting from this proposal shall be effective unless set forth in writing signed by both Buyer and Seller. The endorsement and cashing of any check containing an endorsement, or accompanied by a letter or other communication, indicating that any payment of less than the full invoiced amount shall be deemed to be other than on account of the invoiced amount shall not be deemed to be a written agreement for purposes of the foregoing sentence.

Further, no payment by Buyer or receipt by Seller of an amount less than the amount invoiced by Seller shall be deemed to be other than on account of the invoiced amount, nor shall any action by Seller with respect to any check for lesser payment, whether or not containing any endorsement or accompanied by any letter or other communication be deemed an accord and satisfaction, but Seller may accept such lesser payment without prejudice to Seller's rights to collect the balance of originally invoiced amount.

Seller may furnish suitable substitutes for materials unattainable because of unavailability of materials from supplier, improvements in design or performance, and priorities or regulations established by government authority.

DELIVERY AND EXCUSABLE DELAYS

Seller will establish shipping dates as close as practical to Buyer's needs and will exercise diligence in meeting such estimated schedules. However, delivery dates are approximate and conditioned upon prompt receipt of all necessary information from Buyer. Original agreed-upon times are not to be deemed of the essence of an accepted order and reasonable variations from originally agreed-upon times will be accepted by the Buyer. All contracts shall be subject to force majeure. The Buyer's order may be cancelled, original delivery date extended by Seller, at its option, due to delays in receipt of complete specifications from Buyer, drawing approval, preliminary report reviews, receipt of Buyer payments, and temporary work suspension requests or changes by the Buyer. Buyer agrees to fully reimburse Seller for all additional costs incurred as a result of such delays.

All supervision and labour provided by Seller to complete the order shall be on the basis of eight (8) hours per day, Monday through Friday, inclusive. If it is mutually agreed that other working periods are required, Buyer will pay additional charges, allowances, or any other costs resulting therefrom.

PACKING AND SHIPPING

Quoted prices include standard domestic packing for shipment in the United States and Dominion of Canada, and no allowance will be made for the omission of such packing. If special domestic packing or export packing is required, it will be furnished only if specified in advance and included in the quoted price.

All goods are shipped at Buyer's risk and are shipped FCA SP manufacturing location. Seller reserves the right to make delivery in instalments, unless otherwise expressly stipulated herein, all such instalments to be separately invoiced and paid when due per invoice, without regard to subsequent deliveries. Delay in delivery of any instalment shall not relieve Buyer of its obligation to accept remaining deliveries. If material is received in a damaged condition, Buyer should contact transportation agent and immediately file a claim.

Shipping weights published on product profile sheets are careful estimates, but are not guaranteed. Shipping weights, along with all dimensions shown in Seller's catalogue and drawings, are approximate, but are not to be used in estimating freight charges and construction estimates unless they are certified.

All goods sold with shipping charges prepaid and absorbed by Seller as specifically agreed to by Seller at the time and acceptance of the order, Seller will pay the lowest cost transportation charges to the point of destination. However, the liability of the Seller for these shipments will remain the FCA SP manufacturing location. Buyer will assume responsibility for providing insurance to cover any damage resulting in transportation of the equipment for the benefit of Seller, including any payment balance due Seller.

REFUSAL TO ACCEPT DELIVERY

All accepted orders are for delivery to the Buyer as soon as completed, and are not subject to suspension or to deferments, except with Seller's written consent, upon terms which will indemnify Seller for all loss or damages. Buyer shall pay reasonable storage charges, insurance, and care and maintenance expenses of the equipment upon Buyer's failure to take delivery of the equipment when notified by Seller of the availability for shipment.

Should equipment be held beyond the scheduled shipping date for the convenience of the Buyer, Seller has the right to add a surcharge of 1.5% per month, or fraction thereof, to all remaining unpaid invoices for the period elapsing between completion of fabrication and shop testing of the equipment and acceptance of it by the Buyer. If the equipment is held beyond the scheduled shipping date for the convenience of Buyer, the storage of the equipment for the account of the Buyer shall constitute delivery. In addition, Seller may invoice Buyer as of the scheduled shipping date.

RETURNS AND SHORTAGES

Permission to return materials, plus shipping instructions, must be secured by the Buyer before returning any material to SP Industries.

Buyer must affix a tag to each of the returned items clearly stating Buyer's name and description of the returned item. All authorized return shipments must be made as directed by Seller, with transportation charges prepaid to point of origin of shipment unless instructed otherwise. Shipments of materials returned without authorization, or improperly tagged or not prepaid, are subject to refusal and immediate return to shipper.

Products which are obsolete, shipped to the Buyer more than six months prior to date of return, or made to special order are not returnable. Buyer shall not initiate deductions from payment to Seller for equipment returned to Seller. Seller will initiate a credit to Buyer.

Any material returned shall be subject to restocking and reconditioning charges and must be returned with all shipping charges prepaid by Buyer.

Claims for shortages or other errors in delivery must be made in writing to Seller within ten (10) days after receipt of shipment and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer.

ERECTION AND INSTALLATION OF EQUIPMENT

When specified, the services of a competent Seller's representative to supervise the starting and/or installation or erection of the equipment and to instruct the Buyer's representative in its operation are included for the specified number of days. If such services are required in excess of that time, the Buyer will pay for such additional services at the specified rate per day plus additional living expenses and travel expenses in accordance with Seller's service engineer standard charges.

Should the field installation of the equipment specified herein be by a party other than the Seller or its subcontractor, and should Buyer assert that fabrication and/or design discrepancies exist in the fabrication and/or design work as performed by the Seller, Buyer shall immediately give notice to Seller, confirmed in writing, detailing the alleged discrepancies or deficiencies and provide Seller an opportunity for on-site inspection.

Should agreement be reached that corrective action is necessary, Buyer and Seller shall agree upon a mutually acceptable program for such corrective action and the extent of the costs thereof to be borne by Seller. Unless the provisions of this paragraph are complied with, Seller will not be liable for any costs of corrective action covering Seller's equipment or products, and assumes no obligation for reimbursement of Buyer's back charges or otherwise.

Should this proposal result in a contract which includes field installation or fabrication by the Seller, or its subcontractor, of the equipment at Buyer's site, or that of its customer, Seller's additional General Terms and Conditions pertaining to providing technical services shall be applicable.

PAYMENT TERMS

Terms of payment are set forth in the proposal or as otherwise may be agreed upon by the Seller and Buyer in a separate written document. Payments shall be in United States currency, in cash, certified or bank check, without discounts, setoffs, or other deductions of any kind, payable within thirty (30) days after presentation, shipment, or after notification of availability for shipment. These terms apply to partial as well as complete shipments. Accounts which are past due in accordance with the agreed upon terms of payment shall bear interest at the annual rate of 3% above the prevailing prime rate or the maximum rate allowed by law. In the event Seller institutes legal proceedings for collection of past due accounts, Buyer shall pay all costs of collection, including reasonable attorney fees. Seller reserves the right to ship C.O.D. or refuse shipment or delivery of goods referred to herein, or any part thereof, in the event that it in its sole discretion decides that the outstanding indebtedness of the Buyer exceeds reasonable credit allowances.

Upon Buyer's failure to pay any amount when due, Seller may, without prejudice to other lawful remedies, suspend further shipments and deliveries, and no forbearance, course of dealing, or prior payment shall affect this right. Buyer's payment shall in no event be subject to or conditioned upon inspection and acceptance of the equipment by the building owner, general contractor or other authority, or for any other reason whatsoever, unless agreed to in writing by Seller upon acceptance of Buyer's original purchase order.

Buyers not having established satisfactory credit ratings with Seller, must provide satisfactory credit information with the order upon request. Seller will check credit references and available credit information listings. Seller reserves the right to require Buyer to execute, acknowledge, and deliver appropriate security agreements to Seller, or to make full or partial payment of the balance of the price if, in the opinion of Seller, the credit history of Buyer so requires. For export sales, terms are on demand against a Letter of Credit payable in the United States.

The Letter of Credit must be irrevocable and confirmed by a United States bank acceptable to the Seller.

TAXES AND OTHER CHARGES

Any present or future duty, sales, use, excise or other taxes, whether Federal, State, or local, applicable to this transaction are not included in prices herein stated and if and when due shall be paid by the Buyer without cost or charge to the Seller. Seller shall assume full responsibility for payment of all Federal, State, and local taxes, and/or special levies required under the unemployment insurance, social security, income tax, and/or other laws, with respect to performance of Seller's obligations under the contract.

TITLE

Seller shall retain a security interest, title, and right of possession in the equipment until all Seller invoices have been paid in full by the Buyer. Buyer agrees to all acts necessary to protect and maintain such right and title with Seller and to protect the interest of Seller by adequately insuring the equipment against loss or damage from any external cause with Seller named as insured or co-insured.

WARRANTY

Seller warrants to the Buyer that the equipment manufactured by Seller will be free from defects in design, material, and workmanship when properly installed by Seller or in accordance with Seller's written instructions, and operated under normal use and service for a period of twelve (12) months after acceptance of the equipment by the Buyer or fifteen (15) months from shipment, whichever occurs first. Seller's obligation under this agreement is limited solely to repair or replacement at Seller's option, at Seller's factories, of any defective or nonconforming part or parts thereof, which shall be returned to Seller with transportation charges prepaid which Seller's examination shall disclose to Seller's satisfaction to have been defective. Seller assumes no liability for damage resulting from corrosion, normal wear, erosion, or from improper handling, operation, or maintenance. **THIS AGREEMENT TO REPAIR OR REPLACE DEFECTIVE PARTS IS EXPRESSLY IN LIEU OF AND HEREBY DISCLAIMS ALL OTHER EXPRESS WARRANTIES, AND IS IN LIEU OF AND IN DISCLAIMER AND EXCLUSION OF ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AS WELL AS ALL OTHER IMPLIED WARRANTIES, IN LAW OR EQUITY, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON SELLER'S PART. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION HEREOF.**

Seller neither assumes or authorizes any person to assume for Seller any liability or obligation in cost of any labour charges for replacement of parts, adjustments, repairs, or any other work done outside Seller's factories and Seller's liability does not include any consequential or resulting damage to persons, property, equipment, goods, product, merchandise, profits, goodwill or reputation arising out of any defect in or failure of Seller's equipment (including fire or explosion in the starting, testing, or subsequent operation of the equipment), whether resulting from breach of warranty, Seller's negligence or otherwise, and Buyer assumes all liability for the use or misuse by Buyer or its employees. Buyer hereby releases Seller from, and indemnifies Seller against all liability not expressly assumed by Seller hereunder.

Seller's obligation to repair or replace shall not apply to any apparatus which shall have been repaired or altered outside Seller's factory in any way, or which has been subject to negligence, to misuse, or to operating conditions beyond stated limits.

Equipment or parts furnished by Seller, but manufactured by others (such as motors, switches, control instrumentation, etc.) are the responsibility of the manufacturer under its warranty, if any, and Buyer's sole recourse will be to such manufacturer. On parts not of Seller's manufacture, such as motors, controls, etc., Seller extends only the same warranties given by the manufacturer to the Seller. However, Seller will endeavour to obtain at least one (1) year warranty from the date of shipment from outside suppliers on equipment purchased by Seller. Seller's warranty runs only to the immediate purchasers and does not extend, expressly or by implication, to any other person. Nothing in the above warranty provisions, however, shall impose any liability or obligation of any type, nature or description upon Seller if Seller has not received payment in full for the equipment provided.

All shipping-related claims, including for alleged shortage or non-deliverance of work, negligence or any other cause whatsoever, shall be deemed waived unless made in writing and received by Seller within thirty (30) days after Buyer's receipt of the work. Failure of Buyer to give notice of any claim within such time period shall be deemed an absolute and unconditional waiver of such claim, irrespective of whether processing, use or resale of the materials shall have taken place. Seller's determination of the validity of any claimed defect shall be conclusive and binding on the Buyer. **BUYER'S EXCLUSIVE REMEDY SHALL BE FOR DAMAGES RESULTING FROM ANY CAUSE WHATSOEVER, INCLUDING ALLEGED NEGLIGENCE, AND SHALL IN NO EVENT EXCEED THE CONTRACT VALUE OF THE WORK IN RESPECT TO WHICH THE CLAIM IS MADE, OR AT THE ELECTION OF SELLER, THE CORRECTION OR REPLACEMENT OF SUCH WORK.** Seller shall not be liable for, and Buyer assumes responsibility for, all personal injury and property damage resulting from the use of furnished materials and/or recommendations. In no event shall Seller be liable for special, incidental or consequential damages, whether Buyer's claim is in contract, negligence, strict liability or otherwise. Any action or proceeding by the Buyer for breach of this agreement or arising out of this transaction must be commenced within three (3) months after the expiration of the herein warranty period.

If warranty repairs or replacement of parts are to be accomplished locally in lieu of Seller's factory, they must be agreed to in writing by Seller in advance of the work being done, and with the exact cost of the work stated in a letter of authorization from Seller. No expenses incurred will be paid to Seller unless so agreed in advance.

Extended warranties, if specifically provided, are effective only if the equipment is properly stored and adequately protected from weather, excessive condensation, atmospheric conditions, physical damage, and only if the equipment has been properly installed and not misused or mishandled.

LIMITED WARRANTY

Any suggestions or recommendations made by Seller, whether written or oral, concerning uses or applications of said materials and/or equipment, reflect Seller's opinion only and Seller makes no warranty of results to be obtained. No warranty is extended to the process of manufacture, nor to the quality of product for which any recommended or evaluated equipment is to be used, and the Buyer shall hold Seller harmless against any, suit, claim, or damage, arising from or out of use of any information or equipment supplied by Seller.

Seller shall not be responsible for work done or materials furnished by others that are contracted by Buyer to complete the work unless agreed to in writing, and reserves the right of doing or supervising any necessary additional work needed to complete the requirements of the order. In the event any equipment or software is provided by Seller as an integral part of completing its assignment, these will be guaranteed only to the extent of the normal warranty offered by that manufacturer.

PATENT LIABILITY

Seller agrees, at its expense, to defend all suits or proceedings brought against the Buyer, and save harmless the Buyer in any suits or proceedings insofar as the same are based upon any claim that the equipment furnished under this contract constitutes an infringement of any apparatus claim of a United States letters patent, provided the Buyer gives Seller immediate written notice of the institution of any suit or proceeding and permits Seller, through its Counsel to defend the same, and gives Seller all needed information, assistance, and authority to enable Seller to do so.

Should the equipment in such suit be held to constitute infringement, and its use enjoined, Seller will at its option, within a reasonable time, secure for the Buyer at Seller's expense the right to use such equipment, or modify such equipment to render it non infringing or remove such enjoined equipment and return the sums paid therefore. These provisions, however, shall not apply:

(a) To any patented equipment or parts thereof or auxiliary apparatus specified by the Buyer and not manufactured by Seller, with respect to which Seller assumes no responsibility, or

(b) To any mechanical design specified by the Buyer or alterations to the equipment furnished by Seller without Seller's approval.

These provisions, however, shall not apply to any patented equipment, device or part specified by the Buyer but not manufactured by Seller.

Buyer assumes and will bear the expense of, and will hold Seller harmless against any suit, claim, or damage arising from or out of any patent liability for any equipment manufactured to Buyer's design or specification, or to equipment designed by Seller to meet Buyer's requirements, or for actual or alleged infringement of any U.S. or foreign patents because of use of equipment that was evaluated, recommended, or supplied by Seller.

SAFETY FEATURES

If the equipment or installation thereof covered by this proposal is designed or manufactured pursuant to designs, directions, or requirements of the Buyer, Buyer assumes full responsibility for specifying all necessary safety features and equipment to meet all Federal, State, and local laws, rules, and regulations.

The Occupational Safety and Health Act (OSHA) imposes certain requirements on an "employer," including many relating to the use of machinery and equipment. Since these requirements are directly related to the conditions under which and the manner in which the machinery or equipment is used, Seller makes no warranty, express or implied, of merchantability under, fitness under, compliance with, or liability under OSHA, its interpretations and/or regulations. Further, the Seller makes no warranty of any kind other than the warranty set forth above.

CONFIDENTIALITY

Information furnished in all reports, manuals, drawings, specifications by Seller may be used by the Buyer for its internal purposes, as the Buyer deems beneficial, as long as due care is taken to hold the information confidential within the Buyer's organization (including consultants with the need to know the information). All rights to the information remain with Seller. Technology used and/or developed in the engineering and/or manufacturing of equipment supplied to the Buyer shall remain exclusively the property of Seller unless there is a written agreement between the Buyer and Seller to waive this clause for good cause.

Nondisclosure of Buyer-supplied information: Seller will maintain in confidence and not disclose any information released by the Buyer to Seller during the completion of the contract for five (5) years thereafter, without the written consent of the Buyer, provided such information has been provided to Seller with Seller's full knowledge and understanding that the information is considered confidential and proprietary.

ACCESSIBILITY

SP Scientific's standard terms and conditions apply and can be downloaded at:

www.spscientific.com/SP-Scientific-Terms-and-Cond/

Our Standard Terms and Conditions of Sale are in effect as of April 2021.

Revisions or updates to our terms and conditions of sale can be found on our website www.SPScientific.com.

SP Industries reserves the right to update SP Scientific Terms and Conditions of Sale at their discretion.