



Cleveland Motion Controls

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CLEVELAND MOTION CONTROLS, INC. TERMS AND CONDITIONS OF SALE

CONDITIONAL ACCEPTANCE OF BUYER'S OFFER TO PURCHASE GOODS.

THIS ACCEPTANCE IS EXPRESSLY MADE CONDITIONAL ON ASSENT BY BUYER TO EACH TERM AND/OR CONDITION SET FORTH HEREIN AND ON THE REVERSE SIDE HEREOF INCLUDING ANY TERMS AND/OR CONDITIONS WHICH ARE ADDITIONAL TO OR DIFFERENT FROM THOSE CONTAINED IN BUYER'S OFFER TO PURCHASE THE GOODS. IF SUCH TERMS AND/OR CONDITIONS ARE NOT ACCEPTABLE, BUYER SHOULD NOTIFY CLEVELAND MOTION CONTROLS, INC. (THE COMPANY) AT ONCE. ACCEPTANCE OF THE GOODS BY BUYER OR FAILURE OF BUYER TO OBJECT IN WRITING TO SUCH TERMS AND/OR CONDITIONS WITHIN FIVE DAYS FROM RECEIPT OF THIS CONDITIONAL ACCEPTANCE SHALL CONCLUSIVELY CONSTITUTE BUYER'S ASSENT TO SUCH TERMS AND/OR CONDITIONS.

ENTIRE CONTRACT.

The terms and conditions of sale herein set forth, plus the terms set forth on the reverse side hereof, if any, and all drawings, specifications, descriptions and other documents attached hereto constitute the final written expression of all of the terms of this contract (unless changed in accordance with the succeeding paragraph), are a complete and exclusive statement of those terms, and supersede all prior and contemporaneous communications, whether written or oral, between Cleveland Motion Controls, Inc. (the Company) and Buyer.

Any and all representations, promises, warranties or statements made by the Company's agent or agents that differ in any way from the terms of this written contract shall be given no force or effect. None of the terms of this contract shall be subject to change except by written authorization of a property authorized representative of the Company at its main office in Cleveland, Ohio or at such other principal office of the Company with which Buyer has transacted for the sale of the subject goods. The failure of the Company to object to any provision in conflict herewith, whether contained on the Buyer's offer to purchase or otherwise, shall not be construed as a waiver of the terms of this contract nor as an acceptance thereof.

Should any term of this contract be invalid under applicable law, the contract shall not fail by reason thereof but shall be construed in the same manner as if such term had not appeared herein.

ORDERS.

All orders are received subject to acceptance and may be accepted only on the Company's printed acknowledgment form. Typographical and clerical errors in quotations, orders and acknowledgments are subject to correction.

PRICES.

Prices are FOB point of shipment. Prices are subject to change without notice. Prices in effect at the time of shipment will apply.

TAXES.

The Buyer agrees to pay directly any sales, use or manufacturer's tax due upon the merchandise herein described or upon any feature of this transaction.

PAYMENT TERMS.

Standard payment terms are cash net thirty (30) days after the date of shipment by the Company. Amounts past due are subject to a service charge of eighteen percent (18%) per annum or the current prime rate per annum, whichever is greater. If the Company, in its judgment at any time deems that, by reason of the financial condition of the Buyer or otherwise, the continuance of production or shipment on the terms specified herein is not justified, the Company may require full or partial payment in advance. Certain orders may, in the judgment of the Company, because of their nature or the delivery involved, require progress payments. Pro-rated payments shall become due as shipments are made. The Company's failure to exercise any right accruing from any default of the Buyer shall not impair any rights in case of subsequent default by the Buyer.

DELIVERY.

Shipping dates given by the Company are approximate and are based on prompt receipt of all necessary information regarding the order. The Company will use its best efforts to meet the scheduled date shown on the face thereof, but does not guarantee to do so. Failure to make shipments as scheduled does not constitute a cause for cancellation and/or for damages of any character. In the event of any delay requested by the Buyer or any delay caused by the lack of shipping instructions, the Company will store all items ordered at the Buyer's risk and expense, and will invoice the Buyer for the full contract price of the goods on or after the date on which the same is ready for delivery. The Company is not responsible for any risk of loss, loss damage or delay that may occur after the goods have been accepted for shipment by the carrier. Any such claim should be made to the carrier in accordance with the applicable provisions of the Federal Bills of Lading Act.

CANCELLATION.

No order or any part thereof may be cancelled by the Buyer at any time except with the written approval of an authorized representative of the Company at its main office in Cleveland, Ohio or at such other principal office of the Company with which Buyer has transacted for the sale of the subject goods. If the Buyer fails to make payments to the Company in accordance with the terms hereof, the Company may at its option cancel all undelivered parts of any order by written notice to the Buyer. In the event of any cancellation of this order by either party, the Buyer shall pay to the Company reasonable costs and expenses (including engineering expenses and all commitments to its suppliers and subcontractors) incurred by the Company prior to receipt of notice of such cancellation plus the Company's usual rate of profit for similar work.

ENGINEERING DATA.

All engineering data design information, engineering and shop drawings used in the completion of this order are the property of the Company.

PATENTS.

Orders to customer's drawings or descriptions are executed only on the understanding that the Buyer will indemnify the Company for any loss resulting from an action for infringement of patents.

RETURNS.

No goods are to be returned without written authorization by the Company. The Buyer must pay a restocking charge plus return transportation.

CHOICE OF LAW.

This contract shall be governed by and construed according to the laws of the State of Ohio.

LIMITATION OF ACTIONS.

Any action by Buyer under or relating to this contract must be commenced within one year after such cause of action has accrued.

LIMITED WARRANTY.

ALL GOODS ARE SOLD SUBJECT TO THE MUTUAL AGREEMENT THAT THEY ARE WARRANTED BY THE COMPANY TO BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP FOR ONE YEAR FROM THE DATE OF SHIPMENT. THE COMPANY'S WARRANTY DOES NOT COVER, AND IT MAKES NO WARRANTY WITH RESPECT TO ANY DEFECT, FAILURE, DEFICIENCY OR ERROR WHICH IS:

- A) NOT REPORTED TO THE COMPANY WITHIN THE APPLICABLE WARRANTY PERIOD; OR
- B) DUE TO MISAPPLICATION, MODIFICATION, DISASSEMBLY, ABUSE, MISUSE, IMPROPER INSTALLATION, UNAUTHORIZED REPAIR, IMPROPER MAINTENANCE OR ABNORMAL CONDITIONS OF TEMPERATURE, DIRT OR CORROSIVE MATTER; OR
- C) DUE TO OPERATION, EITHER INTENTIONAL OR OTHERWISE, ABOVE RATE CAPACITIES OR IN AN OTHERWISE IMPROPER MANNER.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES. THE PARTIES AGREE THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THE SALE OF GOODS.

LIMITATION OF REMEDY AND LIABILITY.

THE REMEDY PROVIDED HEREIN IS BUYER'S SOLE AND EXCLUSIVE REMEDY. THE BUYER'S REMEDY AND THE COMPANY'S LIABILITY (WHETHER UNDER THE THEORIES OF BREACH OF WARRANTY, CONTRACT TORT INCLUDING NEGLIGENCE OR STRICT LIABILITY OR ANY OTHER LEGAL THEORY) SHALL BE LIMITED EXCLUSIVELY AT THE COMPANY'S OPTION TO REPLACING OR REPAIRING WITHOUT CHARGE AT THE COMPANY'S FACTORY OR ELSEWHERE ANY MATERIAL OR WORKMANSHIP DEFECTS WHICH BECOME APPARENT WITHIN ONE YEAR FROM THE DATE ON WHICH THE GOODS WERE SHIPPED. THE COMPANY SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF USE, INCOME OR PROFIT, OR LOSSES SUSTAINED AS A RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON OR DAMAGES TO PROPERTY. THE COMPANY SHALL HAVE NO LIABILITY FOR DAMAGES OF ANY KIND ARISING FROM THE INSTALLATION AND/OR USE OF THE GOODS BY ANYONE. BY THE ACCEPTANCE OF THE GOODS, THE BUYER SHALL ASSUME ALL LIABILITY FOR ANY DAMAGES WHICH MAY RESULT FROM USE OR MISUSE BY THE BUYER, ITS EMPLOYEES OR BY OTHERS.