



ENTIRE AGREEMENT- The terms set forth herein constitute the sole terms and conditions of the contract between you the buyer and Commercial Fluid Power the seller. Acceptance of delivery of any or all goods ordered by a buyer shall constitute assent by the buyer to these terms of sale.

QUOTATIONS- All quotations are subject to change without notice. All materials offered are subject to prior sale, and unless otherwise agreed are binding only for immediate acceptance. All sales are made subject to strikes, accidents, or other causes of any kind beyond our reasonable control. We reserve the privilege to cancel orders upon which full specifications have not been given within the time agreed.

CONFIRMATION- Confirming orders should be marked "Confirmation," preferably across face of order. Confirmation orders not so marked may be treated as original open orders and duplicated; in such cases we will not be responsible for expense and inconvenience incurred.

TELEPHONE ORDERS- Telephone orders are accepted at the risk of the buyer and shipments made before the receipt of confirmation are for the special convenience of the customer.

TECHNICAL INFORMATION – Any technical or product information we furnish with respect to use of the material is given without charge, and we assume no obligation or liability for the advice given. All such advice given and accepted is at the buyer's risk. None of our employees, sales representatives or agents of Commercial Fluid Power have any authority to bind us to any affirmation, representation or warranty other than those stated herein. Unless an affirmation, representation or warranty is specifically included or referred to herein it shall not be enforceable against us.

PRICES- quoted may be changed by us without notice in order to reflect our prices at time of shipment and any increase in transportation, labor or other costs. We reserve the right to correct any obvious errors in specifications or prices. The price for the Goods and all other amounts owed to us shall be paid by you without abatement, deduction or set off.

DISCOUNTS-Cash discounts may be offered as part of Sales Terms. Payments received prior to due dates will be eligible for discount as stated on Commercial Fluid Power Acknowledgements. Discount eligibility is based on payments received before offered terms have elapsed. Days are counted from the time when material or invoice is received, whichever is later; provided, the period will be extended during any delay caused by errors in invoicing, necessitating correction or any good faith dispute over the accuracy of the invoice.

SURCHARGES- Surcharges imposed by Commercial Fluid Power's suppliers at the time of shipment shall be paid by buyer. Surcharges include, but are not limited to, scrap, fuel, natural gas, nickel, chromium, or molybdenum.

TAXES- Any taxes which, under any existing or future law, we may be required to pay or collect with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods or services covered shall, if not separately shown, be added as a separate item to the quoted price and shall be paid by you to us on demand. The foregoing shall not apply to any taxes, the payment or collection of which by us is excused by reason of delivery to us of valid tax exemption certificates.

QUANTITIES- Commercial Fluid Power reserves the privilege of shipping over or under the ordered quantity in accordance with established trade practices. This plus or minus purchase order quantity will constitute full and complete shipment of the material specified.

TERMS OF PAYMENT- Full and final payment shall be due thirty (30) days from the date of each invoice unless otherwise expressly agreed in writing. A cash discount is offered consistent with industry practice for payment within ten (10) days from the date of the invoice. Seller reserves the right to charge a finance charge up to one and one half (1-1/2%) percent over the prime rate on the amount of the invoice which remains unpaid thirty (30) days after the invoice date.

DELIVERIES- Any delivery schedule indicated is based on our present estimate of the time required to ship after receipt of your order and in case of any item which is to be shipped from a producing mill upon current production schedules of the producing mill. In the event of any delay in our performance due in whole or in part to any cause beyond our reasonable control we shall have such additional time for our performance as may be reasonably necessary under the circumstances. Commercial Fluid Power shall not be liable for any delay in delivery or failure to deliver caused for any reason in whole or in part beyond our reasonable control including but not limited to production schedules of the producing mill, unavailability of materials, labor disturbances, acts of God, transporting difficulties or causes which abnormally increase the cost of performance. Acceptance by you of any goods shall constitute a waiver by you of any claim for damages on account of any delay in the delivery of such goods.

NUCLEAR APPLICATION EXCLUSION- It is expressly understood and agreed that, without Commercial Fluid Power's prior written acknowledgement, buyer will not use, cause to be used or make available for use the goods described herein in any nuclear application including, but not limited to, use in connection with any nuclear reactor, any nuclear power generating system or any nuclear waste (or spent fuel) disposal project. Any subsequent nuclear application of the goods is wholly unauthorized and shall be deemed to be unknown to, unforeseeable to and unintended by Commercial.

SUSPENSION OF PERFORMANCE- If in our judgment reasonable doubt exists as to your financial responsibility, or if you are past due in payment of any amount owing to us, we reserve the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship, or stop any material in transit, until we receive payment of all amounts, whether or not due, owing to us, or adequate assurance of such payment.

SHIPPING- Unless otherwise expressly stated, shipment may be by carrier or other means selected by Commercial. Title to any goods priced at shipping point shall pass to you upon delivery at such shipping point; title to any goods priced at destination shall pass to you upon delivery at the destination specified. Goods shall be shipped by carriers and routes as instructed by Buyer. Seller agrees to pay for packing, loading, and draying, unless otherwise agreed in writing.

WARRANTY- We warrant that all material, at the time of shipment by us, shall conform to any specifications set forth on the face of our sales form and shall conform to the description contained in the Certificate of Tests of Certificate or Compliance if either has been furnished by us in connection with a sale.

WARRANTY DISCLAIMER- We disclaim all warranties with respect to material sold or services rendered, whether expressed or implied, including the warranties of merchantability and fitness of the material or services for any particular purpose. By placing an order with Commercial Fluid Power A Buyer affirms that he has not relied upon the skill or judgment of any of our employees, sales representatives or agents of the company to select or furnish material for any particular purpose, and the sale is made without warranty by us that the material is suitable for any particular purpose.

TOLERANCES AND VARIATIONS- All goods shall be subject to tolerances and variations consistent with usual trade practices and applicable specifications regarding dimensions, straightness, section, composition and mechanical properties and normal variations in surface and internal conditions and quality and shall also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods.

INSPECTION- Materials must be examined by the buyer immediately upon receipt to determine correctness of shipment as to quantity, size, length, and condition. Buyer must not cut, fabricate or otherwise use material without such examination.

CLAIMS- If any goods received by you do not agree with the quantities indicated on the shipping documents, and if you intend to assert any claim against us on this account, you shall mark an exception on your receipt to the carrier and shall, within fifteen (15) days after receipt of such goods, furnish us detailed written information as to any damage or shortage. You shall advise us in writing promptly after receipt of any goods, and in no event not later than thirty (30) days after such receipt of any other claim you may have against us with respect to such goods. If you have any claims against us with respect to any goods, you shall afford us a reasonable opportunity to inspect such goods. Any action for breach of this contract must be commenced within one year after the cause of action shall accrue, and no such action may be maintained which is not commenced within such period. No goods may be returned without our prior authorization.

CLAIMS AGAINST CARRIER- Promises of delivery on special orders are estimated as carefully as possible but can be subject to source or carrier conditions beyond our control. A clear receipt given to the carrier by the consignee eliminates the possibility of a claim for damage or shortage against the carrier. In cases of shortages or damaged material, both the buyer's copy and the carrier's copy of the receipt, freight bill, or delivery memo must be noted with the detail of the shortage or damage and all the copies must be signed and acknowledged by the carrier's driver or representative.

LIMITATIONS OF LIABILITY- Your exclusive remedy for breach of contract as to any goods, and our only liability for any such breach, shall be replacement or repair of such goods, or repayment to you of the purchase price paid by you for such goods, whichever such remedy we shall select, and if we elect to repay the purchase price of any such goods and so advise you, you must return such goods to us immediately. In no event will we be liable for incidental or consequential damages incurred by you or by third parties.

EXCLUSIVE REMEDY - We will, at our option and as a buyer's exclusive remedy, replace with new material, or refund the purchase price for, material that in our opinion is defective if the buyer gives written notice of the defect to us within 30 days after receipt. Our obligation shall not extend to any material that, in our judgment, has been affected by damage or wear resulting from operations performed after the sale, or from misuse, abrasion, corrosion, negligence, accident, tampering, faulty installation, inadequate maintenance, damage or casualty. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as we are willing and able to replace defective material or refund the purchase price within the time specified. **Under no circumstances will we be responsible for any other damage, including any direct or consequential damage or loss, arising from contract, tort or otherwise, including without limiting the generality of the foregoing, loss or damage to buildings, contents, products or persons.** Buyer must immediately discontinue use of any item claimed to be defective. No charge for labor or expense required to repair defective material or occasioned by it will be allowed.

TOOLS, DIES and FIXTURES- Unless otherwise expressly provided, any tools, dies or fixtures which may be developed for use in the production of the goods covered shall be owned by us or any producing mill, as we may elect, even though you are charged in whole or part for the cost of such tools, dies and fixtures.

INDEMNIFICATION-If any of the goods are to be furnished to your specifications, you agree to indemnify us and our successors and assigns, against all liabilities and expenses resulting from any claim of infringement of any patent in connection with the production of such goods. You also agree to defend and indemnify us against all claims and expenses arising out of the mishandling, abuse or misuse of the goods by you or your customer.

COMPLIANCE WITH LAWS- Any clause required to be included in a contract by any applicable law, or by administrative regulations having the effect of law, is hereby incorporated herein.

CANCELLATION- A contract may be canceled or modified only by written agreement between us, except as otherwise provided. Your assistance upon canceling or suspending fabrication or shipment, or your failure to furnish specifications when required, may be treated by us as a breach of contract by you, and we may cancel any unshipped balance without prejudice to any other remedies we may have. Special order and completed work cannot be cancelled for any reason. Completed work will be invoiced at the full price if material is not released within 30 days of estimated completion date.

SET-OFF- You authorize us to apply toward payment of any moneys that become due us hereunder any sums which may now or hereafter be owed to you by us, or by any subsidiary or affiliated company of ours.

FORCE MAJEURE- We shall not be liable for delay or failure to perform in whole or part by reason of contingencies beyond our control, whether herein specifically enumerated or not, including among others, act of God, force majeure, war, acts of war, revolution, civil commotion, riot acts of public enemies, blockade or embargo, delays of carriers, car shortage, fire explosion, breakdown of plant, strike, lockout, labor dispute, casualty or accident, earthquake, epidemic, flood, cyclone, tornado, hurricane, or contingencies interfering with the production or with customary or usual means of transportation of the goods, or with the supply of coal or fuel or of any raw material of which said goods are a product or which may be used in their manufacture, delays of vendors, or, where material covered hereby is not manufactured by us, then lack or failure of sources of supply of said materials, or by reason of any law, order, proclamation, regulation, ordinance, demand, requisition, or requirement of any other act of any governmental authority, national, state, or local, including court orders, judgments, or decrees, or any other cause whatsoever, whether similar or dissimilar to those above enumerated, beyond our reasonable control. Quantities so affected may be eliminated by us from this contract without liability.

APPLICABLE LAW- The construction performance and completion of this contract is to be governed by the law of the state from which we ship the goods. To the extent that the provisions hereof may vary from the Uniform Commercial Code of such state or any other jurisdiction, the provisions hereof shall govern.

LIMITATIONS ON ACTIONS- No action against us for breach of any sales agreement may be brought more than one year after the cause of action accrues.

ACCEPTANCE - Our sales are made pursuant to our terms and conditions. If we receive a purchase order that limits acceptance to its terms or states that our acknowledgement, shipping of material, commencing work, or other act or failure to act constitutes acceptance of an offer on the terms of the purchase order, no responding document sent by us shall be a definite and reasonable expression of acceptance of the buyer's offer. In that event, our responding documents are intended as a counter offer, accepted when the buyer accepts shipment of any of the material described.