

**STANDARD TERMS AND CONDITIONS OF SALE**  
**Gardner Denver Thomas, Inc.**

**EXCEPT AS OTHERWISE AGREED IN WRITING, THESE TERMS AND CONDITIONS GOVERN ALL OUR CONTRACTS TO THE EXCLUSION OF OTHER TERMS AND CONDITIONS. OUR QUOTATIONS AND ESTIMATES AND ANY ORDER PLACED BY YOU WILL ONLY BE ACCEPTED BY OUR WRITTEN CONFIRMATION OF SUCH ORDER.**

**GENERAL PROVISIONS**

1. The definition of terms used, interpretation of this agreement and rights of parties hereto shall be construed under and governed by the Uniform Commercial Code of the State of Wisconsin. "Seller" when used herein means **GARDNER DENVER THOMAS, INC.** "Purchaser" when used herein means the person, firm or corporation to whom this quotation is addressed. "Equipment" or "Products" means those articles, supplies, drawings, data or other property or services described herein.
2. All quotations are for immediate acceptance and subject to change or withdrawal without notice before an order is acknowledged by Seller. This proposal cannot be changed or varied by any verbal agreement. If this proposal is deemed to constitute an offer, it may be accepted only on terms set forth in this proposal, including, without limitation, these Terms and Conditions. Any additional and/or different terms and conditions proposed by Purchaser and/or any attempt by Purchaser to vary any of these terms and conditions shall be deemed a material alteration and is hereby objected to and rejected. Any variation between Purchaser's own resale terms and conditions and these Terms and Conditions shall be the Purchaser's responsibility.
3. Unless otherwise agreed by Seller in writing, Seller's prices are subject to change without advance notice at any time prior to order acknowledgment. All sales are subject to increase without notification by the amount of any sales or excise tax levied or charged by any governmental agency and are subject to any price adjustment necessitated by Seller's compliance with any government action.
4. All sales under all orders and these terms and conditions are subject to Seller and/or Government priorities, laws and regulations, now or hereafter established.
5. The Seller reserves the right to change, discontinue or modify the design and construction of any product or to substitute material equal to or superior to that originally specified, without notice to the Purchaser.
6. All claims by Purchaser for shortages in a shipment of Equipment or Equipment damaged in transit must be made against the carrier. All claims by Purchaser against Seller for nonconforming Equipment and claims for shortages in a shipment or damaged Equipment (other than claims to be made against the carrier) must be made in writing to Seller within ten (10) days after receipt of shipment or thirty (30) days after date of shipment, whichever occurs first, or they are waived.
7. Any action for breach of the contract hereunder must be commenced within one year after the cause of action has accrued. Only variations or modifications to the contract which are made in writing signed by Seller and Purchaser shall be enforceable. Any failure by Seller to enforce its rights under this contract will not be deemed a waiver of such rights.
8. All disputes arising under or in connection with this Contract shall be resolved by (a) good-faith negotiations by knowledgeable, responsible representatives of each party who are fully authorized to settle any such dispute, or (b) in the event such negotiations do not resolve such dispute, binding arbitration held in Chicago, Illinois, by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Each party shall bear its own costs of these procedures; the parties shall equally split the fees of the arbitration and the arbitrator. Notwithstanding the above, either party shall have the right to seek a temporary restraining order or an injunction related to the purposes of this Contract, to compel compliance with confidentiality obligations, or to file suit to compel compliance with this dispute resolution process.
9. Purchaser may not assign, novate or otherwise transfer its rights or obligations under this contract without Seller's prior written consent, and any attempt to do so shall be null and void of no effect.
10. The minimum order value is \$50.00.

**CANCELLATION**

Cancellation of scheduled orders will be accepted only if made in writing and received 60 days prior to the scheduled shipment or order. All cancellations will result in a charge to Purchaser of all expenses incurred by Seller, including but not limited to costs of purchased materials, engineering costs, and a reasonable mark-up to cover overhead and profit; cancellation charges shall be, at a minimum, at least 15% of the purchase price of the goods covered by the cancelled orders.

**CHANGE ORDER TERMS AND CHARGES**

1. Changes to scheduled orders must be requested in writing on a full 60-calendar day and approved by the factory or such changes will not be

permitted. Attempted rescheduling within a 60-day notice period, or refusal of timely shipment based on improperly requested rescheduling, will result in an additional charge for all incurred freight plus 1% per month for storage.

2. Orders that have been rescheduled within 60 days of the originally acknowledged shipping date will not be held for more than 90 days beyond the originally acknowledged shipping date. Orders not shipped within the 90 day storage period will be cancelled and the Purchaser will be invoiced for the cancellation and accrued storage charges.

**RETURNS POLICY**

All sales are final. However, in some cases returns may be permitted. No Products will be accepted for return without the Seller's prior written approval and unless accompanied by a properly authorized "Return Authorization Request" initiated by the Seller. Return freight must be prepaid. For non-special and non-custom Products accepted for return, a credit will be issued at the price invoiced, from which will be deducted the expense for return transportation (if not prepaid) and a minimum restocking charge of 15% of the invoice value.

Special or custom-made Products, including units that are modified from standard units, cannot be returned for credit.

**ENGINEERING CRITERIA**

The Equipment furnished by Seller are sophisticated engineering products; accordingly, Purchaser undertakes:

1. That it has provided and will promptly provide all the information reasonably necessary to enable Seller to (i) evaluate the requirements for performing and (ii) perform the Contract, and that all such information is full and accurate;
2. That all premises, plant, engineering support, spare parts, connected machinery and inputs that it is required to provide for the design, engineering, installation, testing and use of the Products are fit for their purpose and of good engineering quality;
3. Fully to co-operate with Seller in the design, engineering, testing and use of the Products;
4. To use the Products for the intended purpose only and in accordance with the Product literature; and
5. Not under any circumstances, to use any unapproved spare part, connected machinery, service or repair or use the Products in any manner as may render the Products dangerous and agrees that any breach of these negative criteria will negate all specific and implied conditions and obligations on the part of Seller relating to the quality of the Products.

Purchaser further agrees that it will be liable to Seller for any costs, expenses and losses it suffers by reason of any breach of these undertakings.

**DRAWINGS, DESIGNS AND CONFIDENTIALITY**

1. All of Seller's specifications, designs, drawings, indications of physical, chemical and electronic properties ("the Designs") are made in good faith and are approximate indications only and are not binding in detail unless Purchaser has specified in writing a particular indication upon which he is relying and Seller shall be entitled to vary the same and/or to correct errors and omissions provided the Products remain in substantial conformity with the contractual requirements.
2. The Designs (including all copyright, design right and other intellectual property in them) shall as between the parties be the property of Seller; and Purchaser is not entitled to make any use of the Designs other than for the purpose of this Contract.
3. Any inventions, modifications, improvements, techniques or know-how affecting the Products made or gained in the course of performing this Contract, shall belong to Seller absolutely.
4. Neither party shall disclose to third parties nor use for its own purposes any confidential information or trade secrets of the other party.

**SHIPMENT, PAYMENT AND CREDIT**

1. Terms of Payment: A. Domestic – Net fourteen (14) days from date of invoice. Delinquent accounts shall bear interest at 18% per annum thereafter, until paid. Said interest rate shall be reduced to the maximum permissible rate in any state having laws which so require. B. International – Unless

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otherwise agreed to by the Seller's Manager of Credit and Collection, payment shall be in U.S. Funds by wire transfer or irrevocable Letter of Credit, confirmed by a major U.S. Bank. In addition to such late payment charges, Seller may add to the amount past due any costs associated with collection thereof, including reasonable attorneys' fees.

2. Seller may, in its sole discretion, accept payment for Products by cash in advance or by money-down with scheduled progress payments.
3. Shipments and deliveries shall be subject to approval of Seller's Credit Department. If Purchaser fails to fulfill the terms of payment, or if at any time before payment in full is made (whether or not payment is yet due) a petition is presented or resolution passed for the winding up or bankruptcy of Purchaser, or in the event of the appointment of a receiver or administrator of Purchaser's business, Seller may defer further shipment or at its option, cancel the unshipped balance. Seller reserves the right previous to making any shipments, to require from Purchaser satisfactory security for performance of Purchaser's obligation. No failure of Seller to exercise any right accruing from any default of Purchase shall impair Seller's right in case of any shipment default of Purchaser.
4. For domestic sales, freight terms are Ex Works (as defined by the Uniform Commercial Code) Seller's plant or point of shipment unless otherwise expressly stipulated. Seller may, in its discretion, select the carrier unless specified in advance by Purchaser. For international sales, freight terms are Ex Works (EXW, Incoterms 2010) Seller's plant unpacked and are subject to VAT or other taxes unless otherwise expressly stipulated.
5. Seller's responsibility for damages in transit ceases upon delivery of goods to carrier and Purchaser then assumes responsibility for damage determination and collection from carrier.
6. All shipping dates given are approximate, and while effort is made to maintain schedules, Seller will not be liable for damages on account of delay. In case of delay by Purchaser in furnishing complete schedules or information, delivery dates may be extended for a reasonable time depending on factory conditions. The Seller shall not be responsible for reasonable or excusable delays nor shall the Purchaser refuse to accept delivery because of any such delays. Excusable delays include, without limitation, delays resulting from accidents, fires, floods, severe weather or other acts of God, strike, lockout or other labor difficulties, embargoes, government controls or other forms of intervention, inability to obtain labor, materials or services and other causes beyond Seller's control. If there is a scarcity in any of its products or goods, Seller will allocate its available supply in its sole discretion.
7. Title and risk of loss to the Products shall transfer to the Purchaser at the time of full payment and delivery; provided, however, that in the event delivery is prior to full payment, Seller shall retain a security interest in the Products until Seller receives payment in full. Pending payment of the full purchase price of the Equipment or parts furnished by Seller, Purchaser shall at all times keep the Equipment or parts comprehensively insured against loss or damage by accident, fire, theft and other risks usually covered by insurance in the type of business carried on by Purchaser in an amount at least equal to the balance of the price for the same from time to time remaining outstanding. In addition, the Purchaser undertakes not to charge by way of security any of the Products that remain the collateral of the Seller.
8. In the event of Cancellation in accordance with the provisions hereof, or in the event of non-payment (in full or in part) for the Equipment by the due date, Purchaser hereby irrevocably licenses Seller (insofar as it is able) to enter upon any premises to repossess the Equipment.

**INDEMNITY**

Purchaser will indemnify, defend and hold Seller, its affiliated companies and their respective directors, officers, employees and agents harmless from any loss, claim, cost, expense or damage (including payment of reasonable attorneys' fees) suffered or incurred by any of them and/or for which any of them may be liable to any third party due to, arising from or in connection with, directly or indirectly:

- (i) any violation of law, negligence, omission or intentional misconduct on the part of the Purchaser, its servants, agents or employees;
- (ii) Purchaser's instructions or lack of instructions or Purchaser's failure or delay in taking delivery;
- (iii) the breach of any provision of this Agreement by Purchaser; or
- (iv) any infringement or alleged infringement of patents, trademarks, copyright, design, right or other intellectual property right occasioned by the importation, manufacture or sale of the Equipment if made to the specification or special requirement of Purchaser.

**LIABILITY**

Seller's total liability for any and all claims, damages, losses and injuries arising out of or relating to Seller's performance or breach of any term herein shall not

exceed the purchase price of the Equipment. IN NO EVENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL SELLER BE LIABLE FOR LIQUIDATED, INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, EXPENSES OR COSTS, INCLUDING BUT NOT LIMITED TO: (1) LOSS OF PROFITS, BUSINESS OR GOODWILL; (2) LOSS OF USE OF EQUIPMENT OR FACILITIES; OR (3) LOSS RESULTING FROM UNUSABLE MACHINERY OR FACILITY DOWNTIME, HOWSOEVER CAUSED AND EVEN IF THE POTENTIAL FOR SUCH DAMAGES WAS DISCLOSED AND/OR KNOWN.

**DISCLAIMER OF WARRANTY**

SELLER DOES NOT WARRANT THE MERCHANTABILITY OF ITS PRODUCTS AND DOES NOT WARRANT THE FITNESS OF THE PRODUCTS FOR A PARTICULAR PURPOSE. SELLER DOES NOT MAKE, AND HEREBY DISCLAIMS AND EXCLUDES, ANY WARRANTY, EXPRESS OR IMPLIED, OTHER THAN THE WARRANTY CONTAINED HEREIN. THERE ARE NO WARRANTIES EXPRESS OR IMPLIED BEYOND THAT WHICH IS DESCRIBED BELOW.

PURCHASER IS SOLELY RESPONSIBLE FOR DETERMINING THE SUITABILITY OF THE PRODUCTS FOR THE PURCHASER'S USE OR RESALE, OR FOR INCORPORATING SUCH PRODUCTS INTO OBJECTS OR FOR APPLICATIONS WHICH THE PURCHASER DESIGNS, ASSEMBLES, CONSTRUCTS OR MANUFACTURES.

**WARRANTY OF GOODS MANUFACTURED BY SELLER**

1. Except to the extent Seller specifies another warranty period in writing, Seller warrants products and parts manufactured by it and sold hereunder to be free from material defect in material and workmanship for a period of twelve (12) months from date of manufacture of the Product incorporating Seller's OEM unit or eighteen (18) months from date of manufacture encoded on the Product, whichever occurs sooner (the "Warranty Period"); provided, however, that Seller's sole responsibility under this warranty shall be to either repair or replace at Seller's option, any part which fails during the Warranty Period because of a defect in workmanship and material, or a refund of the purchase price. Such replacement parts shall be provided at no cost to Purchaser, at the business establishment of Seller during regular working hours. Seller's obligation under this warranty shall not include any transportation charges, cost of installation, duty, taxes or any other charges whatsoever.
2. Seller shall be under no liability for breach of the warranty set forth herein: (i) unless the Equipment has been properly installed, used, maintained and serviced; (ii) unless Purchaser has promptly informed Seller in writing of the defect alleged within the Warranty Period and within 7 days of the discovery thereof; (iii) with respect to wearing and consumable parts; and/or (iv) to Equipment or component parts or accessories thereof not manufactured by Seller.
3. Seller makes no representation regarding compliance with any state, provincial, or local law, rules, regulations, building code or ordinance relating to the installation or operation of the Equipment.
4. If the Purchaser informs the Seller of a defect after the Warranty Period has expired, then Seller may offer advice (free of charge) and may offer repair or replacement at Purchaser's expense. There are no third party beneficiaries of the Warranty granted by Seller herein.

**WARRANTY OF OTHER MANUFACTURER'S PRODUCTS**

All components and accessories not manufactured by Seller, including goods manufactured by others and supplied by Seller, shall be warranted for a period of one (1) year from the date of shipment. SELLER MAKES NO WARRANTY, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, AS TO THE MERCHANTABILITY OF GOODS MANUFACTURED BY ITS SUPPLIERS AND SEPARATELY STATED AND QUOTED HEREWITH, EXCEPT AS EXPRESSLY PROVIDED HEREIN.

Seller has not authorized any party to make any representation or warranty other than the above warranty statements.

**CONFLICTING LAW**

Some jurisdictions provide rights in addition to those listed above, or do not allow the exclusion or limitation of implied warranties, or liability for incidental or consequential damages. If any provision or part of a provision of these terms is found to be illegal, invalid or unenforceable under any applicable law, such provision or part of a provision shall, insofar as it is severable from the remaining

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terms, be deemed omitted from these terms and shall in no way affect the legality, validity or enforceability of the remaining terms.

**SPECIAL PROVISIONS**

1. Neither the Equipment nor the parts sold hereunder are designed or manufactured for use in or with any atomic installation or activity. If the Purchaser or the ultimate user of the Products or parts intends to use the Equipment or parts in such an installation or activity, the Seller's Terms for Nuclear Sales shall be a part of this Contract. The Seller will furnish the Purchaser with a copy of its Terms for Nuclear Sales upon request.
2. Purchaser understands and agrees that the Products may be subject to export and other foreign trade controls restricting resales and/or transfers to other countries and parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States (together, "Trade Control Laws"). Purchaser shall not export, re-export, transfer, or otherwise dispose of the Products directly or indirectly, except as permitted by applicable Trade Control Laws. Purchaser shall not do anything that would cause the Seller or its affiliates to be in breach of applicable Trade Control Laws. Furthermore, Purchaser shall protect, indemnify and hold harmless the Seller and its affiliates from any fines, damages, costs, losses, liabilities, penalties, and expenses incurred by the Seller as a result of Purchaser's failure to comply with this clause.