

## THIS ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- 1. ACCEPTANCE AND GOVERNING PROVISIONS** - This order is not an acceptance of any offer to sell but is an offer to purchase which may be accepted only by execution, by the Seller, of the acknowledgment copy attached and the return of such copy to Engineered Pump Services, Inc. (hereafter called "Buyer") within fifteen (15) days from the date of this order or by other expression of acceptance, including shipment hereunder, within such fifteen (15) day period. Upon acceptance, this order shall constitute the entire agreement between the parties (except for any additional warranties given by Seller), superceding any and all other quotations, communications, and/or negotiations. Unless specifically agreed to in writing by Buyer and signed by a duly authorized representative of Buyer, no additional or different term or provision (except additional warranties given by Seller) shall become part of this contract. Buyer hereby specifically objects to any such additional term or provision. Buyer agrees to purchase the goods described on this order only upon Seller's complete acceptance of all of the terms and conditions, without modification or addition, of this order. The agreement or sale resulting from the acceptance of this order shall be construed and interpreted in accordance with the internal laws of the State of Wisconsin.
- 2. PAYMENT, PRICES, AND SECURITY INTEREST** - Unless otherwise provided for in the terms of this order, Buyer shall tender payment by check to the Seller, for all conforming goods furnished in accordance with this order, within thirty (30) days after receipt of such goods or receipt of Seller's invoice, whichever is later. If Buyer makes any payment before Buyer's receipt of goods to be provided under this contract, Seller agrees to grant Buyer a security interest in such goods and all proceeds thereof to secure performance of Seller's obligations hereunder.
- 3. DOCUMENTS** - Buyer's Purchase Order number must be shown on all packing lists, containers, correspondence, and invoices relating to this order. Invoice and original bill of lading shall be mailed to Buyer's address, shown on the reverse, promptly after goods are shipped.
- 4. DELIVERY** - Seller shall deliver all items in accordance with the specifications of this order. Items shall be in the quantities, at the price, and within the time period (time is of the essence) shown. Failure of the Seller to comply with such requirements shall entitle the Buyer, in addition to any other rights or remedies, to cancel this order and be relieved of all liability for any undelivered portion. Items received in advance of Buyer's delivery schedule, without advance approval from the Buyer, may, at the Buyer's option be returned at Seller's expense or be accepted and payment withheld until the scheduled delivery date and made net of any storage charges.
- 5. SHIPPING AND PACKING** - All items shall be suitably packed, marked with Buyer's Purchase Order number, and shipped in accordance with the shipping instructions in this order. If no specific packaging instructions are given, standard commercial shipping practices shall apply. Buyer shall not be charged for any boxing or packaging unless specifically itemized on this order. Seller shall be liable to Buyer for any loss or damage resulting from Seller's failure to provide adequate packaging and protection for shipment. Additional expenses, charges, or claims incurred as a result of Seller's noncompliance with shipping instructions or improper description of the shipment in the shipping documents shall be the Seller's responsibility. Immediately upon shipment, Seller shall notify Buyer of complete shipping and routing information.
- 6. INSPECTION** - All goods purchased under this order shall be subject to count, inspection, and testing by Buyer at any reasonable time during manufacture and before or after delivery. If any inspection is made at the Seller's premises, Seller shall, without additional charge, provide all reasonable facilities and assistance for the safety and convenience of the Buyer's inspectors in the performance of their duties. Notwithstanding any payment that may be made, no goods shall be deemed accepted until the Buyer has had reasonable opportunity to inspect them. Buyer's inspection shall never constitute a waiver of the right of subsequent rejection by reason of any undiscovered or latent defect.
- 7. WARRANTIES** - In addition to its standard warranty Seller warrants that all goods supplied hereunder shall, (a) be free of all liens and encumbrances, good and merchantable title thereto being in the Seller; (b) be free from any defects in design, material, or workmanship and of good and merchantable quality; (c) conform to Buyer's specifications or be fit for the known purposes for which it was purchased; and (d) have been produced in conformance with all applicable federal, state, and other laws, regulations, and orders. The foregoing warranty shall survive inspection, delivery, and payment and shall run in favor of Buyer and its successors, assigns, and customers. If any such goods are found to be unsatisfactory for any reason, Buyer may, at its option, retain such goods at an adjusted price or return them to Seller for repair, replacement, or refund as the Buyer shall direct. Buyer shall be reimbursed by Seller for all of its expenses in connection with the handling and transporting of any such unsatisfactory goods. Seller shall assume all risks of loss or damage in transit to goods returned by Buyer under this warranty.
- 8. INDEMNITY** - Except for goods ordered in accordance with Buyer's design specifications, Seller warrants that the sale or use of the goods furnished hereunder will not infringe or contribute to infringement of any patent, copyright, or trademark in the U.S. or elsewhere and shall indemnify Buyer, its successors, assigns, and customers against any and all losses, damages, and expenses (including attorney's fees and other costs of defending any infringement action) that they may incur as a result of a breach of this warranty. Seller shall also indemnify and hold harmless Buyer from and against any and all claims made against Buyer in any way actually or allegedly arising out of any goods which are furnished hereunder (including all legal expenses as with above) whether said claims are based on negligence, breach of warranty, strict liability, or any other legal theory, except where claim is based solely upon the alleged negligence of the Buyer and the Buyer's negligence is determined to be the sole cause of all of the damages claimed.
- 9. TAXES** - Buyer shall not be liable for any taxes, duties, customs, or assessments in connection with the purchase and/or delivery of any goods ordered hereunder unless itemized on this order.
- 10. CHANGES** - Buyer may make changes to any item on this order at any time. If any changes result in the increase or decrease of costs, an equitable adjustment in price and delivery schedules may be made. Claims for equitable adjustment must be asserted by the Seller within ten (10) days of the change order. This order, together with any changes to the order, shall constitute one contract. Changes are authorized only by a properly executed Revision.
- 11. CANCELLATION BY BUYER** - Buyer shall have the right to cancel this order at any time without cause. Buyer's liability for cancellation of this order shall be limited to Seller's actual cost for work and materials applicable solely to this order which shall have been expended when the notice of cancellation is received by the Seller. Due allowance shall be made for salvage value.
- 12. WAIVER** - Any waiver of strict compliance with any provision of this order shall in no way be deemed a waiver of strict compliance with any other provision of this order or of the Buyer's right to insist upon strict compliance with any and all provisions in subsequent orders.

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