

ZATKOFF SEALS & PACKINGS TERMS AND CONDITIONS

ACCEPTANCE - AGREEMENT. Buyer's order of goods from Seller shall constitute an effective acceptance of and be limited to the terms and conditions set forth herein ("Terms and Conditions"). Any proposal for additional or different terms or any attempt by Buyer to vary in any degree any of the Terms and Conditions is hereby objected to and rejected. Such proposals, however, shall not operate as a rejection of the Terms and Conditions unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and the Terms and Conditions shall be deemed accepted by Buyer without Buyer's proposals or variances. If this document is deemed an acceptance of a prior offer by Buyer, such acceptance is limited to the Terms and Conditions. Additional or different terms or any attempt by Buyer to vary in any degree any of the Terms and Conditions shall be material and are objected to and rejected, but this document shall not operate as a rejection of Buyer's offer unless Buyer's offer contains variances in the terms of the description, quantity, price or delivery schedule of the goods.

SALES CONTRACT. Any sales contract between Seller and Buyer shall not be effective until accepted by an agent of the Seller at its home office in Farmington Hills, Michigan.

QUOTATIONS. Stenographical and clerical errors subject to correction.

CREDIT. Accounts will be opened only with firms or individuals on approved credit. Seller reserves the privilege of declining to make deliveries, except upon receipt of cash or satisfactory security, whenever, for any reason, doubt as to the Buyer's responsibility develops, and/or in the event that the Buyer fails to fulfill Seller's terms of payment.

CURRENCY. Invoices for material delivered under this order are payable only in U.S. Dollars.

CANCELLATION. Orders may be canceled or deliveries deferred only upon the condition that the Buyer immediately make payment to the Seller for (i) all work completed, at the unit price, (ii) work in process, on the basis of the percentage of completion thereof times the order unit price, and (iii) raw material, unamortized tooling, engineering and other cancellation charges incurred on the basis of cost to the Seller plus handling and overhead charges, plus the reasonable costs and expenses incurred by Seller in making settlement thereunder and in protecting property in which Buyer has an interest and/or the increased costs incurred by Seller by reason of a revision in the delivery schedule. All cancellation charges to be determined at the time of cancellation or deferment.

QUANTITIES. All quotations are based on Buyer accepting over-run or under-run on each individual item not exceeding 10% of quantities ordered. Where closer control of quantity is required special arrangements must be made in advance in writing.

PACKAGING AND PACKING. Standard methods will be used unless otherwise specified.

DELIVERIES. Seller will use all reasonable means to fill orders within the time promised. The Seller does not assume responsibility for any damages growing out of or owing to any delays which are beyond his control. Unless specifically stated in writing to the contrary, quotations are made and orders are accepted for delivery as fast as manufactured by partial shipment packed in bulk.

SHIPMENT. All material is shipped F. O. B. shipping point. Seller's liability as to delivery ceases upon making delivery of material to carrier at shipping point in good condition, the carrier acting as buyer's agent. In ordering, the Buyer should state explicitly the method of shipment preferred and in the absence of shipping directions the Seller will use discretion.

SAMPLES. If requested, the Seller will submit samples for approval when commencing operations upon any order, but the Buyer does so with the understanding that the Seller's machines are to be run immediately after they are set correctly in Buyer's accepted specifications, and Seller will assume responsibility for having the product in conformity with such specifications during the period necessary in which to obtain Buyer's approval. Any change in specifications can be made only at Buyer's direction and expense. If changes are to be made Seller must be notified at once by telephone or wire followed by written confirmation.

TOLERANCES. All dimensions must be limited by a specified tolerance. When not specified it is understood that commercial tolerance apply.

OPERATIONS ON PRINTS. Where there is cross-drilling, slabbing and similar operations shown on prints, the location will be without relation to other dimensions, unless otherwise specified.

BUYER'S SPECIFICATIONS. When Buyer purchases pursuant to his own specifications, the Seller will not be responsible for the design and fitting of parts, the conforming of the Seller's product to the specified tolerances is sufficient evidence as to the correctness of the product.

CONCENTRICITY. Buyer agrees that concentricity is not a dimension and when specified must be specified separately from dimension and will be subject to inspection only at the point where the relation is shown on the blueprint. When concentricity limitation is specified it is understood that it means the actual eccentricity allowable between the center lines of the dimensions, which is one half of a dial reading registration.

SELLER'S TECHNICAL ASSISTANCE. At Buyer's request, Seller may furnish such technical assistance and information as it has available with respect to the use of products (or materials) covered by this agreement. Unless otherwise agreed in writing, all such technical assistance and information will be provided without further charge, and Buyer assumes sole responsibility for all results obtained in reliance thereon.

DIES, TOOLS, ETC. All tooling quoted by Seller and subsequently purchased by Buyer shall be retained in our plant as Buyer's property. Seller will maintain the tooling in good working condition throughout the life of the tooling.

EQUIPMENT. Seller shall have no responsibility for loss or damage to any materials or equipment owned or furnished by Buyer to Seller other than arising from the gross negligence of Seller. When for three (3) consecutive years no orders are received from Buyer for products to be made with any equipment or materials furnished by Buyer to Seller, Seller, after giving thirty (30) days written notice to Buyer at the last known address, may make such disposition thereof as Seller desires without liability to Buyer.

INSPECTION. Inspection by the Seller is made on a percentage basis only. If 100% inspection is required, it is at Buyer's expense.

WARRANTY AND DISCLAIMER. Seller warrants title to the merchandise described herein is of the kind and quality described herein. The foregoing is in lieu of any and all other warranties.

THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND SELLER MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS.

Buyer acknowledges that except as set forth herein, no representations, verbal or written were made to it or relied upon by it. Buyer assumes all risk and liability for the results obtained by use of the merchandise for a particular purpose. In no event shall Seller be liable for any breach of warranty in any amount exceeding the purchase price of the material in respect of which any claim is made. Seller shall have no obligations or liability for incidental or consequential damages or loss of profits, labor costs or any other claims or liabilities whatsoever.

CLAIMS. If the Buyer claims delivery of material not as ordered, Buyer must notify Seller within thirty (30) days of receipt of shipment or the material is deemed accepted by Buyer and in full satisfaction of any and all warranties. If such claim is sustained and material furnished is not as ordered, the Seller shall repair, replace, credit, or complete the order within the limitations as set forth in the term labeled QUANTITIES. Under no circumstances will the Seller be liable for damages or any claims for expense involved in using this product. Seller will not allow claims for defective goods on those parts further processed by the Buyer and resulting in changes of either dimensions or characteristics from parts as ordered. Claims for shortage must be made within thirty (30) days from receipt of the goods, and in every case the weights found in the shipment, including tare, must be given and the Seller advised of the method used in arriving at a count of the parts.

RETURNED GOODS. No shipments of returned goods shall be made without written authorization from Seller. The Seller shall pay the freight charges of authorized returns, but reserves the right to specify the type and routing of the carrier. Any returns received without authorization shall be immediately returned to the Buyer at his expense and shall be invoiced for any handling and/or freight charges against the Seller.

PATENTS. It is not the intention of the Seller to manufacture any product which is an infringement of a patented article. Parts are made by the Seller strictly to dimensional specifications furnished by the Buyer. It is agreed that the Buyer will defend the Seller and its agents against any claims for damages from alleged patent infringement or unfair competition by the design, manufacture, use or sale of parts made by the Seller, either as parts or units of complete entities. Buyer further agrees to indemnify Seller and its agents against any and all expenses, losses, royalties, profits and damages, including court costs and attorneys fees resulting from any such suit or proceeding, including any settlement.

INTELLECTUAL PROPERTY. Notwithstanding anything to the contrary herein or in any of Buyer's written purchase orders or other document, all patents, inventions, improvements, discoveries, writings, recordings, pictorial reproductions, drawings, data, graphic representations, proprietary information, copyrights, trademarks, or works of a similar nature originated or owned by Seller, used in, arising out of or derived from the performance by Seller of this agreement shall be the sole and exclusive property of Seller. Seller shall be under no obligation to deliver any of the foregoing to Buyer and no waiver, relinquishment, alteration or abatement of Seller's rights hereunder may take place unless specifically agreed to and acknowledged in writing by Seller.

TAXES - EXTRA. Any tax imposed by any present or future law of any Federal, State or Municipal authority on the manufacture or sale of the articles purchased hereunder and required to be paid by the Seller, shall be added to the amount to be paid by the Buyer.

INSURANCE. Seller accepts no risk of loss or damage to Buyer's goods, tooling and any other equipment and materials supplied by Buyer to Seller by deterioration or by fire, smoke, explosion, sprinkler leakage, windstorm, flood, hail, aircraft, riot, civil commotion, labor trouble, or any other casualty while in transit, in Seller's possession or under Seller's control and Seller will not provide insurance coverage of any kind for such goods.

NUCLEAR INDEMNITY. If the goods are to be used in any nuclear installation or activity, then Buyer or the ultimate user (i) shall secure and maintain the maximum nuclear property damage liability insurance protection available, (ii) shall enter into and maintain a government indemnity agreement, and (iii) shall waive and require its insurers to waive all rights of recovery or subrogation against Seller for, and shall indemnify and hold Seller harmless from and against any claims, losses or damages (including consequential or special damages of any kind) arising out of a Nuclear Incident as that term is defined in the Atomic Energy Act of 1954, as amended.

INDEMNIFICATION. Buyer agrees to indemnify, defend and hold harmless the Seller from any claims, costs or other liabilities arising from the re-sale, distribution, or use of the goods and materials sold to the Buyer.

FORCE MAJEURE. No liability shall result from delay in performance or non-performance directly or indirectly caused by circumstances beyond the control of Seller, including, without limitation, any act of God, fire, explosion, flood, war, act of or authorized by any governmental authority, accident, labor interruption or shortage, inability to obtain material, equipment or transportation. Quantities so effected may be eliminated from this agreement without liability to Seller, but the agreement shall otherwise remain unaffected.

SELLERS' LABELING AND LITERATURE. Buyer acknowledges that it has received and is familiar with Sellers' labeling and literature concerning the products or materials sold hereunder and will forward such information to its employees or other persons who handle, process or sell such products and to the Buyer's customers of such products, if any.

SETOFF. All claims for money due or to become due to Seller shall be subject to reduction or setoff by Seller by reason of any counterclaim arising out of this or any other transaction with Seller.

ENTIRE AGREEMENT. This document contains the entire understanding of the parties, and it may not be modified except in writing.

CHOICE OF LAW AND JURISDICTION. The agreement between Seller and Buyer shall be governed and construed by the laws of Michigan. The parties submit to the personal jurisdiction and venue of the courts in Oakland County, Michigan for the purpose of resolving any disputes with respect to the invoice or the products delivered under it.

LIMITATION OF LIABILITY FOR SERVICES. If the indebtedness reflected by this invoice arose from services performed by Zatkoff Seals & Packings, involving materials supplied by or for the account of customer, if said services are determined to be defective because of Zatkoff's negligence, breach of contract or for any other reasons, except gross or willful negligence, and recognizing that it may be difficult or impossible to fix actual damages which may be the result of said acts or omissions, the parties hereby agree that Zatkoff's liability, if any, shall be limited to the cost of Zatkoff's service set forth in this invoice either by forgiveness of said cost if unpaid, or by refund thereof if paid. Said measure of liability is understood to be liquidated damages and not a penalty.