

## STANDARD TERMS AND CONDITIONS of ITT INDUSTRIAL PROCESS (IP) (hereinafter referred to as Seller)

**WARRANTY** - Company warrants title to the product(s) and, except as noted with respect to items not of Company's manufacturer, also warrants the product(s) on date of shipment to Purchaser, to be of the kind and quality described herein, and free of defects in workmanship and material. This warranty is expressly in lieu of all other warranties, including but not limited to implied warranties of merchantability and fitness, and constitutes the only warranty of the company with respect to the product(s).

If within one year from date of initial operation, but not more than eighteen months from date of shipment by Company of any item of product(s), Purchaser discovers that such item was not as warranted above and promptly notifies Company in writing thereof. Company shall remedy such nonconformance by, at Company's option, adjustment or repair or replacement of the item and any affected part of the product(s). Purchaser shall assume all responsibility and expense for removal, reinstallation, and freight in connection with the foregoing remedies. The same obligations and conditions shall extend to replacement parts furnished by Company hereunder. Company shall have the right of disposal of parts replaced by it. Purchaser agrees to notify Company, in writing, of any apparent defects in design, material or workmanship, prior to performing any corrective action back chargeable to the Company. Purchaser shall provide a detailed estimate of the material, labor costs associated with proposed remedy for expeditious review and approval by the Company.

Seller neither assumes, nor authorizes any person to assume for it, any other obligation in connection with the sale of its engineering designs or products. This warranty shall not apply to any products or parts of products which (a) have been repaired or altered outside of Seller's factories or authorized service centers, in any manner; or (b) have been subjected to misuse, negligence or accidents; or (c) have been used in a manner contrary to Seller's instructions or recommendations. Seller shall not be responsible for design errors due to inaccurate or incomplete information supplied by Buyer or its representatives.

Any separately listed item of the product(s) which is not manufactured by the company is not warranted by the company and shall be covered only by the express warranty, if any, of the manufacturer thereof.

This states purchaser's exclusive remedy against company and its suppliers relating to the product(s), whether in contract or in tort or under any other legal theory, and whether arising out of warranties, representations, instructions, installations or defects from any cause. Company and its suppliers shall have no obligation as to any product which has been improperly stored or handled, or which has not been operated or maintained according to instructions in Company or supplier furnished manuals.

**LIMITATION OF LIABILITY** - Neither Company nor its suppliers shall be liable, whether in contract or in tort or under any other legal theory, for loss of use, revenue or profit, or for cost of capital or of substitute use or performance, or for incidental, indirect, or special or consequential damages, or for any other loss or cost of similar type, or for claims by Purchaser for damages of Purchaser's customers. Likewise, Company shall not, under any circumstances, be liable for the fault, negligence, or wrongful acts of Purchaser or Purchaser's employees, or Purchaser's other contractors or suppliers. In no event shall company be liable in excess of the sales price of the part(s) or product found defective.

**GENERAL** - (a) Company will comply with all laws applicable to Company. Compliance with OSHA or similar federal, state or local laws during any operation or use of the product(s) is the sole responsibility of Purchaser. (b) The laws of the State of New York shall govern the validity, interpretation and enforcement of any contract of which these provisions are a part, without giving effect to any rules governing the conflict of laws. (c) This document and any other documents specifically referred to as being a part hereof, constitute the entire contract on the subject matter, and it shall not be modified except in writing signed by both parties. Unless otherwise specified, any reference to Purchaser's order is for identification only. Assignment may be made only with written consent of both parties.

**ACCEPTANCE** - The determination of compliance with performance guarantees will be based on results of factory tests under controlled conditions with calibrated instruments and tested per standards of the Hydraulic Institute, ISO standards, API standards, or other nationally recognized accreditation standards mutually acceptable to Company and Purchaser.

**SHIPMENT** - The term "shipment" means delivery to the initial carrier in accordance with the delivery terms of this order. Company may make partial shipments. Company shall select method of transportation and route, unless terms are f.o.b. point of shipment and Purchaser specifies the method and route and is to pay the freight costs in addition to the price. When terms are f.o.b. destination or freight allowed to destination, "destination" means common carrier delivery point (within the continental United States, excluding Alaska) nearest the destination. For movement outside the United States, company shall arrange for inland carriage to port of exit and shall cooperate with Purchaser's agents in making necessary arrangements for overseas carriage and preparing necessary documents.

**SPECIAL SHIPPING DEVICES** - On shipments to a destination in the continental United States or Canada, Company has the right to add to the invoice, as a separate item, the value of any special shipping device (barrel, reel, tarpaulin, cradle, crib and the like) used to contain or protect the product(s) invoiced, while in transit. Full credit will be given on the return to Company of the device in a reusable condition, f.o.b. destination, freight prepaid.

**DELAYS** - If Company suffers delay in performance due to any cause beyond its control, including but not limited to act of God, war, act or failure to act of government, act or omission of Purchaser, fire, flood, strike or labor troubles, sabotage, or delay in obtaining from others suitable services, materials, components, equipment or transportation, the time of performance shall be extended a period of time equal to the period of the delay and its consequences. Company will give to Purchaser notice in writing within a reasonable time after Company becomes aware of any such delay.

**NONCANCELLATION** - Purchaser may not cancel or terminate for convenience, or direct suspension of manufacture, except on mutually acceptable terms.

**STORAGE** - Any item of the product(s) on which manufacture or shipment is delayed by causes within Purchaser's control, or by causes which affect Purchaser's ability to receive the product(s), may be placed in storage by Company for Purchaser's account and risk.

**TITLE AND INSURANCE** - Title to the product(s) and risk of loss or damage shall pass to Purchaser at the f.o.b. point, except that a security interest in the product(s) and proceeds and any replacement shall remain in Company, regardless of mode of attachment to realty or other property, until the full price has been paid in cash. Purchaser agrees to do all acts necessary to perfect and maintain said security interest, and to protect Company's interest by adequately insuring the product(s) against loss or damage from any external cause with Company named as insured or co-insured.



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continued

**INSPECTIONS / EXPEDITING** - The Company wishes to clarify that it will have to restrict access to agreed upon reasonable times and only for the purpose of conducting those inspections agreed upon. We request 72 hours notice prior to each visit. We request notification prior to visits to our subcontractors and require that we accompany inspectors/expeditors on their visit(s).

**TERMS OF PAYMENT** - Unless otherwise stated all payments shall be Letter of Credit or Net Thirty (30) Days and in United States dollars, and a pro rata payment shall become due as each shipment is made. If shipment is delayed by Purchaser, date of readiness for shipment shall be deemed to be date of shipment for payment purposes. If at any time in Company's judgment Purchaser may be or may become unable or unwilling to meet the terms specified, Company may require satisfactory assurances or full or partial payment as a condition to commencing or continuing manufacture or making shipment; and may, if shipment has been made, recover the product(s) from the carrier, pending receipt of such assurances.

**TAXES** - Any applicable duties or sales, use, excise, value added or similar taxes will be added to the price and invoiced separately (unless acceptable exemption certificate is furnished).

**PRODUCT RETURN** - Products can be returned for credit only after receiving Company's authorization and shipping instructions. Consignor's name and address must be plainly written on the shipping tag.

**PATENTS** - Company shall pay costs and damages finally awarded in any suit against Purchaser or its vendees to the extent based upon a finding that the design or construction of the product(s) as furnished infringes a United States patent (except infringement occurring as a result of incorporating a design or modification at Purchaser's request) provided that Purchaser promptly notifies Company of any charge of such infringement, and Company is given the right at its expense to settle such charge and to defend or control the defense of any suit based upon such charge. This paragraph sets forth company's exclusive liability with respect to patents.

**BUYER DATA** - Timely performance is contingent upon the Purchaser supplying to the Company, when needed, all required technical information, including drawing approval, and all required commercial documentation.

**NUCLEAR** - Purchaser represents and warrants that the product(s) covered by this contract shall not be used in or in connection with a nuclear facility or application.

**PRICES** - The prices stated herein will remain firm for the period up to the stated date of shipment providing the shipment is not delayed by the customer. If shipment is delayed by the customer beyond the shipment date quoted herein, the prices will be based on the prices in effect at time of shipment, including storage and material handling costs. In no event shall the adjusted price be less than the original order price, including change orders. Prices are F.O.B. Shipping Point, unless otherwise specified. When price includes transportation and other charges pertaining to the shipment of goods, any increase in transportation rates and other charges will be for the account of the purchaser. There will be an extra charge for any test other than that which may be normally run by the Company, or for any test performed to suit the convenience of the purchaser.

**CONTROLLING PROVISIONS** - These terms and conditions shall control with respect to any purchase order or sale of the Company's products. No waiver, alteration or modification of these terms and conditions whether on Purchaser's purchase order or otherwise shall be valid unless the waiver, alteration or modification is specifically accepted in writing and signed by an authorized representative of the Company.

**EXPORT** - If this transaction involves EXPORT, the following additional terms and conditions shall apply:

- Compliance is required for ALL applicable US export laws, and the export laws of the country from where the product is exported.
- **PACKING** - when packing is in IP scope of supply, equipment will be packed, boxed or crated in accordance with the Company's standard commercial practice, for under deck export shipment, unless otherwise agreed.
- **LETTER OF CREDIT** - Unless otherwise specified in writing, payment shall be made by irrevocable letter of credit in form acceptable to Company, confirmed by a major USA bank, acceptable to the company and providing for payment in full in United States dollars against presentation of United States inland shipping documents and invoices, such letter of credit to be established prior to company's acceptance of the order. The letter of credit shall also provide that in the event Company is, for any reason beyond its control, prevented from making shipment from Company's factory or delivery at the port of embarkation, a certificate of manufacture of the whole or any part of the goods shall constitute delivery of such whole or any part of the goods and payment in full of any and all drafts drawn against the letter of credit for the goods so "delivered" shall be made upon presentation of such certificates of manufacture in lieu of United States inland shipping documents. In the event that Company is prevented by law, or otherwise, from making shipment from Company's factory or delivery at port of embarkation of the goods or any part thereof, on completion of manufacture, Company reserved the right to place the goods in storage for the Purchaser's account and risk. Any charges incurred in this connection will be for the account of the Purchaser at cost and will be payable upon demand. In regions where Letters of Credit are not available, surety bonds will be utilized in lieu of the bank guarantee.
- **COMPANY AS AGENT** - If Company makes or arranges for ocean shipment, Company shall act as agent for the Purchaser and reserves the right to procure full insurance coverage, including war risk insurance, at the expense of the Purchaser. All expenses incurred in this connection will be payable upon demand to the Company. If Company as agent applies for or secures manufacturing, financing, exporting or other licenses required by the United States Government, or any department thereof, Company shall make such applications or secure such licenses solely as agent for the purchaser, and assumes no responsibility therefore.