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**Terms and Conditions**

1. All orders are subject to acceptance by Schaefer, Inc. ("Seller"). Upon acceptance of any order, these terms and conditions constitute the entire agreement between Seller and the Buyer named in any accepted order ("Buyer"), irrespective of any other provisions anywhere contained, unless expressly stated in writing to be a modification hereof and signed on behalf of Seller. Without limiting the generality of the foregoing, Seller shall not be bound by any terms or conditions imposed by Buyer's customers, whether commercial or governmental.
  2. Any term or condition provided by Buyer which is in any way different from, inconsistent with or in addition to the terms and conditions set forth herein shall not become a part of the agreement between the parties or be binding upon Seller. To the extent that this document may constitute an acceptance, this acceptance is expressly conditioned upon Buyer's assent to the terms and conditions set forth herein. Retention of any products delivered by Seller shall be conclusively deemed assent by Buyer to the terms and conditions set forth herein.
  3. All goods purchased are shipped F.O.B. Seller's facility in Ashland, Massachusetts. All shipping dates are approximate only. Seller shall use reasonable efforts to meet requested delivery dates, but shall not be liable for any failure to do so. All products shall be deemed accepted unless Buyer notifies Seller in writing of any defects within ten (10) days of delivery thereof.
  4. Payment terms are net thirty (30) days from date of invoice. Late payments shall be subject to interest at the lower rate of (i) 1% per month (12% per year) and (ii) the maximum amount permitted by law. Amounts owed must be paid without set-off for any amounts which Buyer may claim are owed by Seller and regardless of any other disagreements which may exist. Seller shall have the right to refuse delivery of the goods if after acceptance of this order, it has cause to believe Buyer's credit or financial condition is unstable.
  5. All prices are exclusive of all excise, sales, use, transfer and other taxes and duties imposed with respect to the products or their sale by any federal, state, municipal or other governmental authority, all of which shall be paid by Buyer.
  6. Orders for non-standard and special products are accepted on a non-cancellable, non-modifiable basis. Orders for standard products may be cancelled or modified only by notice given at least 120 days prior to scheduled delivery. Seller reserves the right to charge up to the full amount of the purchase price for any cancellation or modification that does not comply with the foregoing requirements. Delays in manufacturing or shipment schedules may only be made with Seller's written authorization.
  7. Seller guarantees, for a period of one year from the date of delivery, that the goods purchased will be free from material defects in workmanship and materials, excluding any defects caused by casualty or misuse of the goods. Any claim under this guarantee must be in writing, and must specifically identify the alleged defect. Seller shall give permission to ship the goods to Seller's factory at Buyer's expense if the defect is within Seller's guarantee. Seller's sole liability under this guarantee shall be to repair such defects (or replace the goods) and return the goods to the Buyer at Seller's expense anywhere within the continental United States. THE GUARANTEE GIVEN HEREUNDER IS IN LIEU OF ANY OTHER GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
  8. TO THE MAXIMUM EXTENT PERMITTED BY LAW (A) SELLER'S AGGREGATE LIABILITY FOR ALL CLAIMS ARISING UNDER ANY ORDER OR WITH RESPECT TO ANY PRODUCT OR ANY OTHER MATERIALS OR SERVICES SHALL NOT EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO SELLER BY BUYER FOR THE SPECIFIC PRODUCT OR PRODUCTS GIVING RISE TO THE CLAIM AND (B) IN NO EVENT WILL SELLER BE LIABLE UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST SALES OR PROFITS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
  9. In the event of any delay in Seller's performance due to fire, explosion, labor troubles, unforeseeable shortage of materials, delay in transportation, breakdown or accident or any other cause beyond Seller's reasonable control, Seller shall have such additional time within which to perform its obligations as may be reasonably necessary under the circumstances.
  10. Seller and its licensors shall retain all rights in and to its intellectual property, including without limitation technologies, manufacturing processes, schematics, software and firmware (collectively, "Seller IP"), and Buyer shall not acquire any rights or licenses therein. Seller shall not be obligated to transfer, disclose or provide any such Seller IP to Buyer.
  11. Seller shall indemnify Buyer for all direct and actual damages recovered from Buyer by the third person in any legal proceedings for infringement of United States Letters Patent by the product sold hereunder provided that the Buyer promptly notifies Seller of the claims infringement, permits Seller to assume the defense thereof, and cooperates with Seller with respect to such defense. If products furnished hereunder are manufactured under drawings and / or specifications of Buyer, Seller shall have no liability under this paragraph. Buyer shall save Seller harmless from patent infringement claims resulting from Seller's compliance with design and / or specifications required by Buyer. This paragraph sets forth Buyer's sole and exclusive remedy, and Seller's entire liability, with respect to any intellectual property infringement claims.
  12. Buyer acknowledges that U.S. export control laws and regulations may apply to Seller's products, including the Export Administration Regulations administered by the U.S. Department of Commerce, which prohibit the export or re-export of products and technology to certain countries and persons. Buyer agrees to comply strictly with all U.S. export laws, regulations and orders, and assume sole responsibility for obtaining any required licenses to export or re-export products or technology.
  13. The purchase price of any goods purchased does not include any related services by Seller, including without limitation analyses, reports or inspections, or any travel by Seller personnel. Any such services must be scheduled with Seller in advance and are subject to personnel availability. Buyer shall pay for all such services at Seller's standard rates. No sample products will be provided unless otherwise agreed in writing by Seller. In no event shall Buyer have the right to audit any books or records of Seller.
  14. Any action for breach of these terms and conditions shall be commenced within two years after the delivery of the goods hereunder. These terms and conditions shall be governed by the laws of the Commonwealth of Massachusetts, without regard to principles of conflict of laws. The parties agree that any legal action arising hereunder shall be brought and tried in Boston, Massachusetts. All objections to jurisdiction and venue are hereby waived by Buyer.
  15. Without limitation of any of the foregoing terms and conditions, Seller specifically objects to the following terms set forth in Buyer's purchase order or other documentation:  
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- Schaefer, Inc. ♦ 200 Butterfield Drive ♦ Ashland, MA 01721 ♦ USA ♦  
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