These terms and conditions, the attendant quotation or acknowledgment, and all documents incorporated by reference in this proposal, binds seller, the buyer and Buyer. Form B (10/06) unless otherwise specified by Seller. Seller's price for the Goods and/or Services shall remain in effect for thirty (30) days after the date of Seller's quotation or acceptance of the order for the Goods/Services, whichever is delivered first, provided an unconditional, complete authorization for manufacture and delivery of the Goods or Services pursuant to Seller's standard order processing procedures is received and accepted by Seller within such time period. If such authorization is not received by Seller within such thirty (30) day period, Seller shall have the right to change the price for the Goods/Services to Seller's price in effect for the Goods/Services at the time the order is released to final manufacture. Prices for Goods do not cover storage, installing, starting up or maintaining Goods unless expressly stated in Seller's quotation. Notwithstanding the foregoing, the price for Goods/Services sold by Seller, but manufactured by others, shall be Seller's price in effect at the time of shipment to Buyer.

2. DELIVERY, ORDER ACCEPTANCE AND DOCUMENTATION: All shipping dates are approximate and are based upon Seller's prompt receipt of all necessary information from Buyer to properly process the order. Notwithstanding any provisions to the contrary in this or other documents related to this transaction, and regardless of how price was quoted, whether FOB, FAS, CIF or otherwise, title to the Goods and risk of loss thereto shall transfer to Buyer as follows: for sales in which the end destination of the Goods is within the United States, delivery will be at the time the Goods are delivered to the freight carrier at the shipping point; for sales in which the end destination of the Goods is outside of the United States, immediately after the Goods have passed beyond the territorial limits of the United States. Acceptance of initial installation or eighteen (18) months from the date of shipment by Seller, whichever period expires first. Consumables and Services are warranted for a period of 90 days from the date of shipment or completion of the Services. Products purchased by a third party or users of the Resale Products (if any) shall be covered only by the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Seller's failure to achieve a commercially acceptable effort to arrange for procurement of the Resale Products and shipping of the Resale Products. If Buyer discovers any warranty defects after Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further deliveries under this or any other agreements with Buyer in the event Buyer fails to make any payment hereunder when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorney's fees.

3. EXCUSE OF PERFORMANCE: Seller shall not be liable for delays in performance or for non-performance due to failure or interruption of computer or telecommunication systems, acts of God, war, fire, terrorism, labor trouble, unavailability of materials or components, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions, or other unforeseen circumstances or causes beyond Seller's reasonable control. In the event of such delay, the time for performance of such delivery shall be extended by a period of time reasonably necessary to overcome the effect of the delay.

4. TERMINATION AND SUSPENSION BY BUYER: Buyer may terminate or suspend its order for any or all of the Goods/Services covered by the Agreement only upon Seller's written consent or pursuant to Seller's applicable policy or practices covering such termination or suspension.

5. LIMITED WARRANTY: Subject to the limitations contained in Section 6 hereinafter, Seller warrants that the licensed firmware embodied in the Goods will execute the programming instructions provided by Seller, and that the Goods manufactured by Seller will be free from defects in materials or workmanship under normal use and care and Services will be performed by trained personnel using proper equipment and instrumentation for the particular Service provided. The foregoing warranties will apply until the expiration of the applicable warranty period. Goods are warranted for a period of ninety (90) days from the date of shipment by Seller, whichever period expires first. Consumables and Services are warranted for a period of 90 days from the date of shipment or completion of the Services. Products purchased by a third party or users of the Resale Products (if any) shall be covered only by the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Seller's failure to achieve a commercially acceptable effort to arrange for procurement of the Resale Products and shipping of the Resale Products. If Buyer discovers any warranty defects after Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further deliveries under this or any other agreements with Buyer in the event Buyer fails to make any payment hereunder when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorney's fees.

6. LIMITATION OF REMEDY AND LIABILITY: SELLER SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, CONSEQUENTIAL DAMAGES SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, REVENUE OR USE AND COSTS INCURRED INCLUDING WITHOUT LIMITATION FOR CAPITAL, FUEL AND POWER, AND CLAIMS OF BUYER'S CUSTOMERS.

7. PATENTS: Subject to the limitations contained in Section 6, Seller shall defend any suits brought against Buyer based on a claim that the use of the Goods manufactured by Seller constitutes or contributes to the infringement of a valid patent of Buyer, or that such Goods contain any patented materials. Seller shall pay any damages awarded therein against Buyer, provided that Buyer: promptly notifies Seller in writing of the filing of such suit or the threat thereof; permits Seller to control completely the defense or compromise of such claim of infringement; and provides all reasonable assistance and cooperation requested by Seller for the defense of such suit. In the event that only the Goods manufactured by Seller are held to be infringing in such suit and their use is enjoined, Seller shall, at its sole option and expense, provide a commercially reasonable alternative, including, but not limited to, procuring for Buyer the right to continue using the Goods, replacing them with a non-infringing product or modifying them so they become non-infringing. Buyer agrees that Seller shall not be liable for infringement, and that Buyer shall fully indemnify Seller therefore, if infringement is based upon the use of Goods in connection with goods not manufactured by Seller or in a manner for which the Goods were not designed by the Seller or if the Goods were not supplied by the Seller or if the use of Goods was not approved by the Seller. The foregoing shall not apply to suits designed by the Buyer or were modified by or for the Buyer in a manner to cause them to become infringing.

8. TAXES: Any tax or governmental charge payable by the Seller because of the manufacture, sale or delivery of the Goods/Services hereunder may be added to the price herein specified. The foregoing shall not apply to taxes based upon Seller's net income.

9. TERMS OF PAYMENT: Unless otherwise agreed by Seller, and subject to the approval of Seller, Buyer shall pay all invoices in full, net thirty (30) days from the date of shipment by Seller. All costs of dismantling, reinstallation and freight and shipping will be paid by the Buyer. If Buyer fails to make any payment hereunder when due, Seller may require other arrangements. Freight charges may include shipping and handling charges, and may be for a period longer than the period for which it was provided and may not be disclosed to third parties without the prior written permission of Seller.

10. SOFTWARE AND Firmware: Notwithstanding any provision herein to the contrary, Seller or applicable third party owner shall retain all rights of ownership and title in its respective software, including all copyrights relating to software, systems and all copies of such firmware and software. Except as otherwise provided herein, Buyer is hereby granted a nonexclusive, royalty free license to use firmware and software, and copies of firmware and software, incorporated into the Goods only in conjunction with such Goods and only at the Buyer's plant site where the Goods are first used. Buyer's use of certain firmware (as specified by Seller) and all other software shall be governed exclusively by Seller's and/or third party owner's applicable license terms.

11. BUYER SUPPLIED DATA: To the extent that Seller has relied upon any data or information supplied by Buyer to Seller ("Data"), in the selection or design of the Goods and/or provision of the Services and the preparation of Seller's quotation, and the Data is inadequate or inaccurate, any warranties or other provisions contained herein which are affected by such conditions shall be null and void.

12. EXPORT/IMPORT: Buyer agrees to comply with all applicable import and export law, regulations, orders and requirements, including without limitation those of the United States and the European Union, and the jurisdictions in which the Seller and Buyer are established or from which items may be supplied.

13. GENERAL PROVISIONS: (a) Buyer shall not assign its rights or obligations under the Agreement without Seller's prior written consent. (b) Seller may modify the terms and conditions of the Agreement, express or implied, not specified in the Agreement. (c) No action, regardless of form, arising out of transactions under the Agreement, may be brought by either party more than two (2) years after the cause of action has accrued. (d) Any modification of these terms and conditions must be set forth in a written instrument signed by a duly authorized representative of Seller. (e) The Agreement is formed and shall be construed, performed and enforced under the laws of the State of Missouri. However, Buyer and Seller agree that the proper venue for all actions arising under the Agreement shall be only in the USA and in the State where the Goods involved in such actions were manufactured. (f) UNLESS OTHERWISE SPECIFICALLY STATED IN THE AGREEMENT, THE REMEDIES OF BUYER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER IN CONTRACT, INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, STRICT LIABILITY, OTHER TORT OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE OF GOODS TO SELLER'S LIABILITY TO BUYER TO DANZ AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENT, CONSEQUENTIAL OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ANTICIPATED PROFITS, REVENUE OR USE AND COSTS INCURRED INCLUDING WITHOUT LIMITATION FOR CAPITAL, FUEL AND POWER, AND CLAIMS OF BUYER'S CUSTOMERS.

Emerson

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