

DEKKER VACUUM TECHNOLOGIES, INC.
935 S. WOODLAND AVENUE, MICHIGAN CITY, INDIANA 46360
PHONE 219-861-0661 FAX 219-861-0662 www.dekkervacuum.com

TERMS AND CONDITIONS OF SALE
ALL PRODUCTS ARE SOLD SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS

Dekker Vacuum Technologies, Inc. ("Dekker" or "Seller") has entered your order for goods described on the attached quote or sale order acknowledgement hereof subject to the Terms and Conditions of Sale stated below. Dekker's acceptance is expressly conditioned upon your consent to such Terms and Conditions of Sale. Any exception by you, as the Buyer, to any such Terms and Conditions of Sale must be in writing and received by Dekker within five (5) days of Buyer's receipt of these Terms and Conditions. Otherwise, Buyer shall be considered to have consented to the Terms and Conditions of Sale stated below.

1. **Acceptance of Order by Dekker.** Acceptance by Dekker of Buyer's order is expressly conditioned upon Buyer's acceptance of these Terms and Conditions of Sale, including those on the quote or sales order acknowledgement hereof, and any provisions of Buyer's order or other communication in conflict with these Terms and Conditions are expressly rejected. Buyer acknowledges that no representation or warranty other than those contained in this document have been made or relied upon. No additions or modifications to these Terms and Conditions of Sale shall be valid unless confirmed in writing by Dekker.

2. **Payment Terms.** Unless otherwise specified on the quote or sales order acknowledgement or in writing by Dekker, payment shall be made as follows: net 30 days from the date of the shipment or on orders over \$25,000 (a) 25% upon acceptance of order, (b) 25% at or prior to shipment, and (c) 50% due, in full, in U.S. Dollars within 30 days from date of shipment. For international shipments, unless otherwise noted on the quote or sales order acknowledgement, payment shall be made as follows (a) 50% upon acceptance of order, and (b) 50% at or prior to shipment. The amount due is the amount on the invoice and is not to be reduced by wire or payment fees. All orders received by Dekker are subject to credit approval and Buyer agrees to submit to Dekker those items reasonably requested in order to establish or update Buyer's credit. All payments not made as of the due date are subject to a daily finance charge accrued at the rate of 1.5% per month. Buyer shall also pay Dekker's actual cost of collection, including but not limited to court costs, attorneys' fees and other related amounts, incurred in enforcing the collection of any amount due. Buyer shall have no right of offset against amounts owed to Dekker.

3. **Inspection.** Inspection of equipment to be purchased can be arranged by appointment. Charges may apply.

4. **Taxes.** The price quoted or shown does not include any sales, use, occupation, or other tax which may be imposed on this transaction, other than Indiana or California sales tax if applicable. All such taxes, customs, fees, duties or other amounts (other than Indiana or California sales tax if collected) shall be paid by the purchaser directly to the proper tax collection office.

5. **Shipping Terms.** Unless otherwise specified on the quote or sales order acknowledgement hereof, deliveries are F.O.B. destination, freight prepaid and add (seller pays the freight and adds the freight charges to its invoice to the buyer). Unless otherwise agreed in writing, Dekker will select the route and manner of shipment at Buyer's expense, reserve the right to make delivery in installments when necessary, to invoice each installment separately and to expect payment for each installment within Dekker's selling terms. Any shipping dates requested by Buyer are for informational purposes only and are of no legal force or effect. Any shipment or delivery date stated by Dekker is an estimated date, which is contingent upon receipt of necessary documentation from Buyer and is subject to reasonable production scheduling changes made after the date of any order placed by Buyer. DEKKER WILL ENDEAVOR TO FILL ALL ORDERS ON TIME; HOWEVER, DEKKER SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL LOSSES OR DAMAGES TO BUYER OR TO ANY THIRD PARTIES RESULTING FROM DEKKER'S DELAY IN SHIPMENT, REGARDLESS OF CAUSE, INCLUDING BUT NOT LIMITED TO CAUSES BEYOND DEKKER'S REASONABLE CONTROL.

6. **Dekker Drawings.** All designs, fabrication detail, drawings and test information submitted to the Buyer are the property of Dekker and are not to be copied or distributed to any third party without the express written consent of Dekker.

7. **Cancellation.** Cancellation, waiver or alteration of this order can only be made with the written consent of Dekker and subject to the following cancellation charges: (a) After order is entered = \$150.00, (b) After design completed = 25% of purchase price, (c) After approval drawings mailed, if required = 35% of purchase price, (d) After detailed drawing completed and purchase orders placed = 50% of purchase price, and/or (e) Additional charges added to the above depending upon the amount of non-recoverable costs and/or the amount of design, fabrication and assembly completed.

8. **Returns/Shortages.** No products are returnable except with the written permission of Dekker subject to Dekker's restocking fee then in effect and after receipt of shipping instructions and confirmation that such shipping will be prepaid by Buyer. Claims for shortages must be made within 7 days after delivery to Buyer. Items claimed as missing should be noted as shown on our packing list and reported to Dekker with a copy of the packing list with missing items marked. Buyer must notify

Dekker of any damaged goods received by Buyer immediately. All defective goods received on shipment should not be moved and must be held for Dekker's inspection. Failure to hold such products or notify Dekker of damaged goods immediately may jeopardize any claim Buyer have for the damaged shipment.

9. **Limited Warranties/Sole Remedy.** Parts or products proved defective within the warranty period specified in the Dekker warranty program in effect at the time of sale with respect to the goods purchased hereunder, will be repaired or replaced by Dekker, at its sole option. This warranty does not extend to: (a) any goods made from tools, materials or parts furnished by Buyer or acquired from third parties at Buyer's request or specification; or (b) any defect or problem caused by the negligence or acts of Buyer or others, failure to properly install, operate or maintain the product in accordance with installation, operating and/or maintenance instructions furnished with such products, unreasonable use, accidents, alterations, or ordinary wear and tear. Dekker WILL NOT, IN ANY EVENT, BE LIABLE OR OTHERWISE RESPONSIBLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL OR LIQUIDATED DAMAGES OR PENALTIES OF ANY KIND, however arising, including but not limited to use of any products, loss of time, inconvenience, lost profit or other damages with respect to persons, business or property, whether as a result of breach of warranty, negligence or otherwise. Notwithstanding anything to the contrary contained herein, BUYER'S SOLE REMEDY AGAINST DEKKER FOR GOODS SUPPLIED OR FOR NON-DELIVERY OR FAILURE TO FURNISH GOODS, WHETHER OR NOT BASED ON NEGLIGENCE, STRICT LIABILITY OR BREACH OF EXPRESS OR IMPLIED WARRANTY, IS LIMITED SOLELY, AT DEKKER'S OPTION, TO REPLACEMENT OR CURE OF SUCH NONCONFORMING OR NON-DELIVERED GOODS. DEKKER EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE GOODS SOLD. Where special engineering service from Dekker is requested, within one year of date of shipment, there will be no charge, if difficulties are due to the fault of Dekker with respect to materials, workmanship or design. If due to causes beyond the control of Dekker, Buyer will pay for such service at prevailing rates plus reasonable traveling and related expenses. DEKKER HAS NO CONTROL OVER THE MIXTURE OR CONCENTRATION OF CORROSIVE AND OTHER ELEMENTS WHICH MAY COME IN CONTACT WITH THE EQUIPMENT SUPPLIED. IN THIS REGARD, NO GUARANTEE IS EXPRESSED OR IMPLIED CONCERNING THE MATERIALS, CONSTRUCTION, USE OR DURABILITY OF THE PRODUCTS, INCLUDING WITHOUT LIMITATION, WARRANTIES RELATED TO CORROSIVE RESISTANCE OR WEAR OF GASKETS OR WASHERS, DUE TO EXPOSURE TO CHEMICALS OR CHEMICAL CONCENTRATIONS NOT DISCLOSED TO DEKKER, IN WRITING, PRIOR TO DEKKER'S QUOTE FOR THE SALE OF SUCH PRODUCTS.

10. **Cancellation for Insolvency.** In the event of any suspension of payment or the institution of any proceedings by Buyer against Dekker, or the initiation of voluntary or involuntary proceedings in bankruptcy or insolvency proceedings naming Buyer as a debtor, Dekker shall be entitled to cancel this contact or any subsequently entered into agreement forthwith, without liability for loss of anticipated profits.

11. **Limitation of Litigation, Attorneys Fees.** Any controversy or claim of Buyer arising out of or related to this Order must have accrued within the applicable warranty period, and then be commenced within six (6) months after the cause of action has accrued. Dekker shall be entitled to reimbursement of all costs and expenses, including reasonable attorneys' fees and other litigation expenses, from the Buyer relating to any lawsuit arising from this Order or any subsequently entered into agreement in which Dekker prevails.

12. **Entire Agreement, Governing Law and Forum.** Except as otherwise agreed in writing, this constitutes the entire agreement between Dekker and Buyer, superseding all prior proposals, quotations and understandings, oral or written. All such previous communications are hereby abrogated and withdrawn, and no stipulations, representations or agreements by Dekker, or its officers, agents, or employees shall be binding upon Dekker unless reduced to writing and attached to and made a part hereof. Buyer stipulates to venue in the appropriate court sitting in Indiana or, in the event Dekker elects, the location of shipment of the applicable order, as the proper venue within which to resolve all such questions, disputes, controversies, or litigation. If any provision of this Order is determined invalid under applicable law, such invalidity shall be limited to such provision without invalidating the remainder of the other Terms and Conditions or any other provision hereof.

13. **Governing Law.** This order and any agreement of sale resulting from its acceptance shall be governed by and construed according to the laws of the State of Indiana. The parties agree that the U.N. Convention on the International Sale of Goods shall not apply.