

STANDARD TERMS & CONDITIONS OF SALE**1. Definitions**

- 1.1. The terms and conditions appearing in any quotation, acknowledgement of order, order confirmation, invoice or other similar document provided by Seller (as defined below) relating to the sale of goods or services by Seller to Buyer (as defined below), as supplemented by the terms and conditions appearing herein (collectively, this "Agreement"), shall constitute the complete agreement between the parties, and such terms and conditions supersede any prior or contemporaneous agreements or communications between the parties whether oral or written. No course of performance, course of dealing, or usage of trade shall be applicable unless expressly incorporated in this Agreement.
- 1.2. This Agreement applies to all sales of goods and services to any purchaser ("Buyer") the family of Abrasive Technology companies [Abrasive Technology, Inc., Abrasive Technology NA, Inc., Abrasive Technology Ltd., Abrasive Technology PTE Ltd., and/or Abrasive Technology, SA, (hereinafter referred to as "AT")] collectively or individually referred to as "Seller" and as specifically noted on this Agreement with Buyer.
- 1.3. Conditions not specifically stated herein shall be governed by established trade customs.

2. Acceptance

- 2.1. An order shall not constitute a binding contract between Seller and Buyer until (a) Buyer receives Seller's written acknowledgment of its acceptance of the order or (b) Seller has made shipment.
- 2.2. Seller's Terms and Conditions of Sale shall prevail over Buyer's Terms and Conditions of Purchase.

3. Title and Risk of Loss

- 3.1. Title to the products sold hereunder shall pass to Buyer upon payment in full.
- 3.2. Risk of loss of the products sold hereunder shall pass to Buyer upon delivery to the carrier at Seller's factory dock.
- 3.3. **Security Interest.** To secure the balance of the purchase price remaining unpaid after the delivery to Buyer of the goods that are the subject of this Agreement, Buyer hereby grants to Seller a purchase money security interest in such Goods. This Agreement is intended by Buyer and Seller to constitute a security agreement with respect to such Goods for purposes of the Uniform Commercial Code.

4. Quotations & Alterations

- 4.1. All prices are quoted in U.S. dollars.
- 4.2. The prices and terms in this Agreement are not subject to verbal changes or other agreements unless approved in writing by the corporate headquarters of Seller.
- 4.3. Prices and discounts are subject to change without notice. Written quotations automatically expire ninety (90) calendar days from the date of issuance, unless otherwise stated in the proposal.
- 4.4. Prices are based upon costs and conditions existing on date of quotation and are subject to change by Seller before final acceptance.
- 4.5. When quotation specifies material to be furnished by Buyer, ample allowance must be made for reasonable spoilage and material must be of suitable quality to facilitate efficient production.
- 4.6. When material is to be furnished by Buyer, goods are to be delivered to Seller's factory dock freight and applicable duties paid.
- 4.7. Any taxes, import or export duties, VAT, or tariffs imposed with respect to the sale of the products which Seller at any time either pays or must collect, shall be added to and paid as part of the purchase price.

5. Assignment

- 5.1. Buyer may not assign this Agreement or any interest herein or any right to performance due or to become due hereunder, whether by assignment, subcontract, merger, reorganization, operation of law (all of which shall be deemed to be an "assignment"), or otherwise, without prior written consent of Seller.
- 5.2. Any such actual or attempted assignment without Seller's written consent shall constitute a breach by Buyer and shall entitle Seller to terminate this Agreement without further liability hereunder.
- 5.3. Seller may assert any counterclaims or set-off that Seller may have against Buyer against any assignee, whether or not such counterclaim or set-off arose under or with respect to this Agreement.

6. Terms of Payment

- 6.1. Standard terms of payment are MasterCard, Visa, C.O.D., American Express, Discover Card, prepayment, or net within thirty (30) days from the date of invoice (subject to credit approval). All exceptions must appear on the face of this Agreement.
- 6.2. Any extension of credit allowed to Buyer may be changed or withdrawn at any time.



7. Delivery

- 7.1. Delivery dates mentioned in any Agreement are approximate only and not of any contractual effect and Seller shall not be under any liability to Buyer in respect of any failure to deliver on any particular date or dates.
- 7.2. Delivery shall be at Seller's premises unless otherwise stipulated or agreed by Seller. Seller will charge for delivery other than at its premises at its standard delivery rates.
- 7.3. **Export freight terms are quoted in accordance with INCOTERMS 2000 except as otherwise provided herein.** All shipping and related charges will be paid by Buyer.
- 7.4. Unless otherwise expressly agreed Seller may make delivery in one or more installments each installment being treated as a separate Agreement.

8. Packaging

- 8.1. Buyer shall meet the cost of any special packaging requested by Buyer or any packaging rendered necessary by delivery by any means other than Seller's normal means of delivery.

9. Inspection; Acceptance and Rejection

- 9.1. Buyer may inspect the goods, or provide for inspection, at Seller's factory. Such inspection shall also be so conducted as not to interfere unreasonably with Seller's operations; and consequent approval or rejection shall be made before shipment of the goods.
- 9.2. If, upon Buyer's receipt of the goods, the same shall appear not to conform to the requirements of this Agreement, Buyer shall immediately notify Seller and afford Seller a reasonable opportunity to inspect the goods.
- 9.3. Shipment claims (including but not limited to shortage in quantity delivered, damage to, or loss of the goods in transit) by Buyer must be made within three (3) days after receipt of shipments and Seller shall have the opportunity to investigate any such claim by Buyer. The shipment shall be conclusively presumed to be proper and conforming in all respects unless claims are made within said three (3) day period. Seller shall incur no liability for damage, shortages, or any other cause alleged to have occurred or existed at or prior to delivery to the carrier unless full details are entered on Buyer's receipt to the carrier.
- 9.4. If buyer refuses or fails to take delivery of goods tendered in accordance with the Agreement or fails to take any action necessary on its part for delivery and/or shipment of the goods, Seller shall be entitled to terminate the Agreement with immediate effect, to dispose of the goods as Seller may determine, and to recover from Buyer any loss and additional costs incurred as a result of such refusal or failure.
- 9.5. In no case are goods to be returned without first obtaining Seller's permission.

10. Cancellation

- 10.1. This agreement cannot be cancelled by Buyer except on terms that will fully compensate Seller for any actual or anticipated expenses and loss of profits. A minimum cancellation charge of 15% of order value will be applied to any cancellation after forty-eight (48) hours following receipt of order.

11. Limited Warranty

- 11.1. Seller's warranty is effective from the date of shipment and is limited to six (6) months thereafter or such other period as may be notified by Seller to Buyer in writing (the "warranty period"). If during the warranty period, goods prove faulty by reason of inherently defective material or inferior workmanship and the faulty goods are returned to Seller promptly upon discovery of such fault and properly packaged so as not to sustain any damage in transit, Seller shall at its option, without charge, repair or replace the goods shown to the satisfaction of Seller to be defective in material or workmanship as aforesaid. The warranty shall not operate where the goods have been subject to use beyond their normal performance specifications or in any other way misused.
- 11.2. Notwithstanding the foregoing, Seller's liability in respect of goods subject to a separate guarantee by the manufacturer of same goods will be limited to the manufacturer's own warranty terms and conditions.
- 11.3. Buyer is responsible for design work rendered by Seller unless otherwise expressly agreed to by an authorized representative of Seller on the face of this Agreement.
- 11.4. The remedies described in this Agreement are Buyer's sole and exclusive remedies. Under no circumstance shall Seller be liable for any cost, loss, expense, damages, special damages, incidental damages, or consequential damages arising, directly or indirectly, from Buyer's purchase, ownership, or use of the goods, whether based upon breach of warranty, breach of contract, negligence, strict tort liability, or any other legal theory.
- 11.5. Such damages include, but are not limited to, loss of profits, loss of savings or revenue, loss of use of the goods or any associated property, costs of capital, costs of any substitute equipment, facilities or services, downtime, the claims of third persons (including lessees, customers, and invitees), and injury to property.
- 11.6. **THE WARRANTIES AND LIMITS OF LIABILITY DESCRIBED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT**



LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

12. RMA Procedure>Returns

12.1. At the discretion of Seller, saleable stock products may be returned under the following conditions:

12.1.1. Saleable stock products may be returned to Seller within one-hundred and eighty (180) days of the invoice date for a restocking fee of 15% of invoiced amount.

12.2. For Seller to determine if products are resalable, Seller must have opportunity to inspect products. A written request for return of saleable stock products must be submitted via mail, e-mail or facsimile, and include:

12.2.1. Date of purchase.

12.2.2. Product description.

12.2.3. Invoice reference number.

12.2.4. Reason for the return.

12.3. Certain products (as deemed by Seller) may be subject to stipulations in addition to the above requirements. Therefore, prior authorization is required before any goods may be returned. A Returned Goods Authorization (RMA) number must be obtained from Seller and be displayed on any packaging. Goods without such a returns number will be refused and returned.

12.4. Non-stock products (special makes) and discontinued products are not returnable.

12.5. Product return requests will be considered provided the product is returned within ninety (90) days from date of purchase.

12.6. Shipping charges for authorized returns must be prepaid by Buyer.

13. Force Majeure

13.1. Seller shall not be liable to Buyer for loss, damage, detention or delay resulting from causes beyond its reasonable control including, but not limited to, fire, strike, or other concerted action of workmen, act or omission of any governmental authority or of Buyer, insurrection or riot, embargo, car shortage, wreck or delay in transportation, or inability to obtain necessary labor, materials, or manufacturing facilities from unusual sources. In the event of delay due to any such cause, the date of delivery will be postponed by such length of time as may be reasonably necessary to compensate for the delay. In no event shall seller be liable for consequential damages or claims for labor resulting from failure or delay in delivery.

14. Patents & Intellectual Property Rights

14.1. Buyer assumes liability for infringement of any right of any third party, including without limitation patent and copyright infringement, when goods are made to Buyer's specification.

14.2. All drawings, designs, specifications and other information submitted by Seller are the property of Seller, are confidential and shall not be disclosed to any third party without Seller's prior written consent.

15. Export Compliance

15.1. Buyer agrees to obtain from the relevant authority each necessary authorization and/or Export License for any goods which are subject to this Agreement, if they are, or are likely to be exported, diversion contrary to U.S. law is prohibited. Buyer will indemnify Seller against any consequences of failure to comply with this Agreement.

16. Clerical Errors

16.1. Seller shall not be liable for clerical errors which may be corrected by Seller at any time.

17. Waiver

17.1. Failure by Seller to enforce any rights under these terms shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of them at any time later.

18. Governing Law/Forum

18.1. Notwithstanding the place where this Agreement may be executed or performed, this Agreement shall be deemed to be made under the laws of the State of Ohio, and the construction, validity and performance of this Agreement shall be governed in all respects by the laws of the State of Ohio, including without limitation its Uniform Commercial Code, and the laws of the United States of America, without regard to any principles of conflict of laws and specifically excluding the terms of the United Nations Convention on the International Sale of Goods. Any controversy or claim arising out of or relating to this Agreement, as well as any other dispute between the parties, shall be exclusively brought in a state court sitting in Delaware County, Ohio, USA or a federal court sitting in Franklin County, Ohio, USA.

18.2. Any action for breach of contract or breach of warranty must be commenced within fifteen (15) months following date of invoice.

19. Use of Electronic Transmissions



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- 19.1.** Buyer and Seller agree that the use of electronic transmission, including, but not limited to, e-mail or other transmissions via the Internet or World Wide Web, in entering into and in exercising their rights and performing their obligations under this Agreement is in the best interests of all of the parties and shall be permissible, notwithstanding any requirement of the Uniform Commercial Code or any other applicable law that might otherwise be considered unsatisfied as a result of the utilization of such media. Buyer and Seller therefore agree that the Uniform Electronic Transactions Act, as promulgated by the National Conference of Commissions on Uniform State Laws, shall be applicable to the construction of these Rules and any Transactions hereunder, whether or not such Act shall have been adopted in any jurisdiction. By way of illustration and not of limitation, Buyer and each Seller agree to the following:
- 19.2.** Any document (including this Agreement) transmitted by electronic transmission shall be treated in all respects as an original signed document.
- 19.3.** The signature (including electronic signatures) of any party shall be considered for these purposes as an original signature.
- 19.4.** Any such electronic transmission shall be considered to have the same binding legal effect as an original document.
- 19.5.** Neither Buyer nor Seller shall raise the use of electronic transmission as a defense to this Agreement or in matters relating to any transaction pursuant to this Agreement, and Buyer and Seller each waive such defense.
- 19.6.** Buyer and Seller further agree that facsimile signatures by the parties shall be binding to the same extent as original signatures.

