



Mechanical Linkage Solutions

Terms & Conditions of Sale

1. **GENERAL:** Seller's Prices are based on these sales terms and (i) this document, together with any additional writings signed by Seller, represents a final, complete and exclusive statement of the agreement between the parties and may not be modified, supplemented, explained or waived by parole evidence. Buyer's Purchase Order, a course of dealing, Seller's performance or delivery, or in any other way expect in writing signed by an authorized representative of Seller, and (ii) these terms are intended to cover all activity of Seller and Buyer hereunder, including sales and use of products and all related matters, including technological advice and services. Any references by Seller to Buyer's specifications and similar requirements are only to describe the products covered hereby and no warranties or other terms herein shall have any force or effect. Catalogs, circulars and similar pamphlets of the Seller are issued for general information purposes only and shall not be deemed to modify the provisions hereof. All price books and other materials shall remain the property of Seller and are subject to return on demand.

2. **GOVERNING LAW:** The agreement formed hereby and the language herein shall be constructed and enforced under the Uniform Commercial Code as in effect in the State of Texas on the date of this Order. Venue shall be in Houston, Texas.

3. **PAYMENT:** Invoices submitted by Seller under this Order are payable only in funds which are accepted at par in Florida, Dade County, Florida. Payment for all purchases is due within thirty (30) days of the date of the invoice. A one percent (1%) discount will apply if payment is received within ten (10) days of the date of the invoice. No finance charge will be added to the amount due if paid within thirty (30) days from the date of invoice. A finance charge will be made on any balance that is past due at the annual rate of eighteen (18%) percent. The amount of finance charge for each month shall be added to the balance past due for the purpose of commuting future finance charges.

It is the intention of Buyer and Seller to comply with applicable state and federal laws, accordingly; it is agreed that notwithstanding any provisions to the contrary herein contained, in no event shall Seller or Buyer be permitted to charge, collect or receive interest in excess of the maximum amount permitted under applicable state or federal law, whichever permits the higher rate.

Whenever reasonable grounds for insecurity arise with respect to due performance by Buyer, Seller may demand different terms of payment from those specified on the face of this Order and may demand assurance of Buyer's due performance. Any such demand may be oral or in writing and Seller may, upon the making of such demand, suspend shipments hereunder. If within the period stated in such demand, Buyer fails or refuses to agree to such different terms of payment, or fails or refuses to give adequate assurance of performance, Seller, may, at its option, treat such failure or refusal as a repudiation of the portion of this Order which has not been fully performed, or may make shipment under reservation of possession or of a security interest and may demand payment against tender of documents of title.

Letters of credit are required to be of the irrevocable type and confirmed by an acceptable bank. Seller may change, alter, or modify the time of payment for goods or any agreement for extension of credit, or may require partial or full payment prior to assembling or shipping any goods, notwithstanding any contrary conditions specified in any order, contract or sale. Unless otherwise specifically provided, Seller will furnish invoice and shipping documents specified on Buyer's order. Any of the terms and provisions on Buyer's forms (whether offer or acceptance) which are in any way inconsistent with Seller's terms and conditions shall not be considered applicable to the sale.

4. **TAXES:** Seller's prices do not include sales, use, excise or similar taxes. The amount of any present or future sales, use, excise or other similar tax applicable to the sale or use of the shipment shall be billed separately to and to be paid by Buyer, or in lieu thereof Buyer shall provide Seller with a tax-exemption certificate acceptable to the taxing authorities. However, if an exemption certificate previously accepted is not recognized by the taxing authority and Seller is required to pay the tax covered by such exemption certificate Buyer agrees to promptly reimburse Seller for the taxes paid.

5. **TRANSPORTATION – RISK OF LOSS:** Unless otherwise specified, all prices are F.O.B. Seller's or supplier's shipping point. Title to products passes and risk of loss shall be the responsibility of Buyer when the products are put in the possession of the carrier. Seller does not assume any responsibility for breakage, loss or damage in transit. Any claim on account of damaged products or short count shall be deemed waived by Buyer unless made within ten (10) days from date of delivery or products to which claim relates.

If for any cause whatsoever transportation of goods ordered will not be accepted by the applicable public carries, Seller shall have the right to deliver said goods to a warehouse for storage at the expense of Buyer and such delivery shall be conclusively deemed delivery of such goods to Buyer.

6. **PERFORMANCE, INSPECTION AND ACCEPTANCE:**

Seller shall not be responsible for nonperformance or delays in performance of occasioned by any causes beyond Seller's reasonable control, including but not limited to, war, riots, labor difficulties, delays of vendors or carriers, fires, governmental actions, material shortages and acts of God. Any delays so occasioned shall be effect a corresponding extension of Seller's performance dates which are, in any event, understood to be approximate. In no event shall Buyer be entitled to incidental or consequential damages for late performance or for failure to perform. If Seller shall be unable due to events beyond its control to fill completely the orders of all its customers, Seller shall have the right ratably to allocate goods shipped among its customers.

All products shall be finally inspected and accepted within ten (10) days after receipt at point of delivery. All claims whatsoever by Buyer (including claims for shortages), excepting only those provided for under the Warranty and Limitation of Liability and Patent and Trademark Clauses hereof, must be asserted in writing by Buyer within said ten-day period or they are waived. If this contract involves partial performances, all such claims must be asserted within said ten (10) day period for each partial performance.

There shall be no revocation of acceptance. Rejection may be only for defects substantially impairing the value of the goods and Buyer's remedy shall be that provide for under the Warranty and Limitation of Liability clause. If Buyer wrongfully rejects or revokes acceptance or goods tendered under this Agreement or repudiates the Agreement, Seller shall have the right to recover as damages the price stated herein together with all rights which may be provided Seller under the laws of the State of Texas or this Agreement. Upon recovery of the price, the good involved shall become the property of Buyer.

WARRANTY AND LIMITATION OF LIABILITY:

WITH RESPECT TO GOODS SOLD HEREUNDER WHICH ARE NOT MANUFACTURED BY SELLER, SELLER IS SELLING SUCH GOODS ON AN "AS IS, WHERE IS, WITH ALL FAULTS" BASIS, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED OR STATUTORY WITH RESPECT TO SUCH GOODS. SELLER MAKES NO WARRANTY THAT SUCH GOODS SHALL BE MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE.

Seller hereby assigns to Buyer all of its warranty rights against the original manufacture whatever they may be. Seller will make available to Buyer at Buyer's request, a copy of the original manufacturer's warranty.



Mechanical Linkage Solutions

Terms & Conditions of Sale

Seller warrants that goods to be supplied hereunder which it has manufactured will conform to the description on the face hereof, that it will convey good title thereto; that such goods will be delivered free of any lawful security interest or other lien or encumbrance unknown to the Buyer; that such goods will be free from defects in material and workmanship. This warranty shall terminate six months after date of shipment from Seller's plant and claims not made in writing within such period are waived. This warranty does not extend to goods damaged after date of shipment from Seller's plant where the damage is not directly due to a defect in material or workmanship, nor does it apply to goods altered or repaired by anyone other than Seller's authorized employees, not to goods furnished by Buyer or acquired at Buyer's request and/or to Buyer's specifications.

SELLER MAKES NO WARRANTY THAT SUCH GOODS SHALL BE MERCHANTABLE OR FIT FOR ANY PARTICULAR PURPOSE. SELLER MAKES NO WARRANTY EXPRESSED, IMPLIED, OR STATUTORY, EXCEPT AS IS EXPRESSLY SET FORTH HEREIN.

Seller shall not be liable for any incidental or consequential damages for any breach of warranty. Seller's liability and Buyer's exclusive remedy being expressly limited to Seller's choice of (a) the repair of defective goods, (b) the replacement thereof with conforming goods at the F.O.B. point shown on the face hereof, and (c) the repayment of the purchase price. Replacement of defective goods or repayment of the purchase price therefore will be made only upon return of the defective goods which may be returned at the cost of Seller only upon inspection by Seller or issuance of definite shipping instructions from Seller (transportation cost prepaid by Buyer).

IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR EXPENSES. The total liability of Seller on any claim, whether in contract, tort including negligence, or otherwise, arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any good or product will not exceed the price allocable to the good or product or any part thereof which gives rise to the claim.

No agent, employee, or representative of Seller has any authority to bind Seller to any affirmation, representation, or warranty concerning the goods and unless an affirmation, representation, or warranty made by an agent, employee or representative is specifically included in this Agreement, it shall not be enforceable by Buyer.

PATENTS, TRADEMARKS:

Seller agrees to assume the defense of any suit for infringement of any United States patents brought against Buyer to the extent such suit charges infringement of an apparatus or product claimed by Seller's product in and of itself, provided (i) said product is built entirely to Seller's design, (ii) Buyer notified Seller in writing of the filing of such suit within ten (10) days after service of process thereof, and (iii) Seller is given complete control of the defense of said suit, including the right to defend, settle, and make changes in the product for the purpose of avoiding infringement. Seller assumes no responsibility for charges of infringement of any process or method claims unless infringement to such claims is the result of following specific instructions furnished by Seller. Buyer agrees, for the products delivered under this Order, to indemnify Seller against all judgments, decrees and costs resulting from infringement of any United States Letters Patent to the extent that such infringement arises from designs, specifications or instructions furnished or expressly or impliedly required by Buyer. The sale of products covered by this Order shall not grant to Buyer any right or license of any kind under any patent owned or controlled by Seller or under which Seller is licensed, but the foregoing shall not be understood to limit in any way the right of Buyer to use and sell such goods in the event that such goods as sold hereunder are covered by any such patent.

Proper usage of registered trademarks is a condition of sale.

To maintain the exclusive right to the mark, the holder of the mark must police the mark against misuse whether in the press, radio or television or by a dealer or distributor improper use can lead to a loss of the mark.

It is to your advantage as well as the holder of the mark to protect the exclusivity of these trademarks. Proper usage is as follows:

Whenever a trademark is used, it must be accompanied by the descriptive term for that product.

It may also carry with it the registration mark of notice "TM" or "Reg. U.S. Pat. Off."

It is improper to use the registered trademark as a generic term, therefore, if you are not certain contact the Marketing Services Department of the holder of the trademark.

9. **SHIPMENT, ROUTING:** Shipping dates are based on prompt receipt of full and complete information and credit approval. Shipping dates are understood to be approximate.

10. **PART SHIPMENTS:** Part shipment of an order will not be made without Buyer's knowledge or consent. In the event complete shipment cannot be made by the required date Buyer will be notified and asked whether entire shipments should be held or part shipment made if part shipment with Buyer's approval is made, excess freight charges, if any, will be billed to the Buyer. If routing of shipment is specified on Buyer's orders, it will be followed whenever practicable. Otherwise, routing is subject to Seller's choice.

11. **QUOTATIONS:** All quotations are not binding and subject to satisfactory references and to confirmation when the order is placed. Seller reserves the right to correct clerical errors either before or after acceptances. Quotations are open for acceptance within 60 days.

12. **ACCEPTANCES OF ORDERS, ORDER CHANGES, SUBSTITUTION:** All orders and contracts are subject to acceptance by Seller's Credit Department and are not binding unless and until so approved and accepted. Written acknowledgement of an order shall constitute acceptance and will thereby be a binding contract which cannot be modified or canceled by Buyer without written consent of Seller. All orders and contracts are subject to the terms and conditions herein set forth. No changes in orders will be accepted except by special written arrangement with Seller. If buyer requests changes in specifications or design relating to any goods, delivery schedules shall be revised, if necessary, and an equitable adjustment, upward or downward, shall be made in the price if warranted. Seller reserves the right to substitute materials and modify specifications to the extent required in order to comply with any Government law or regulation.

13. **PRICES:** Prices are for merchandise F.O.B. Seller's plant. Prices, discounts, quotations, and specifications are subject to change without notice and will be applied as in effect at time of deliver; however, every effort will be made to give prior notice of increases. Minimum billing \$75.00

14. **PACKING:** Prices include packing for domestic shipping. For export packing add 5% for the NET price, this being a NET charge. No allowance will be made for omission of standard packing or crating.

15. **AFFIDAVITS:** Orders requiring affidavits or certificates of compliance must so state when orders are enter on plants.
16. **CANCELLATION, RETURN OR GOODS:** No orders or sales may be cancelled without the consent of Seller. At Sellers' option, cancelled orders are subject to payment of cancellation charges equal to cost incurred by Seller up to the date of cancellation, including a reasonable allowance for overhead, computed on the basis of accepted accounting methods. Goods returned without Seller's consent will not be accepted for credit. Credit on returned goods in only applicable towards future purchases.
17. **CONSIGNMENT:** Seller shall not furnish any consigned stock whatsoever. All shipments will be made in accordance with Seller's regular terms of payment. Notations on the order such as "to be paid for when sold," "on trial," or "when satisfactory" shall not bind the Company.
18. **SALES POLICY:** Nothing herein shall be construed as abridging the right of Seller to sell directly or indirectly to: (1) Federal and State Governments or Agencies thereof, or to Agencies employing Federal or State Government Aid; (2) Buyers to buy Seller's goods for sale as integral or assembled parts of their goods; (3) Firms operation on a national scale; (4) Any other class of purchaser to whom Seller may, from time to time, elect to sell.
19. **INDEMNITY:** Buyer shall release, hold harmless, indemnify and defend Seller from and against any loss, liability, claim, suits and costs caused by, arising out of, or relating to the design of goods supplied hereunder or the design of the packages or containers in which they are shipped if such goods, packages or containers are made in compliance with Buyer's design or specifications.