



TERMS AND CONDITIONS OF SALE

1. Definitions

Seller: Best Purging Systems Corporation

Buyer: Entity or Company issuing Purchase Order.

Products: Products, articles, materials and services supplied by Seller, including specified accessories.

Contract: Any purchase agreement, purchase order or contract made for the transfer of Products which shall be considered to incorporate the terms and conditions expressed by the Seller and Buyer.

Quotation: Written proposal presented by the Seller to the Buyer for sale of the Products, and shall include these Terms and Conditions of Sale, insofar as not expressly contradicted in the Quotation.

2. Seller Remittance

Best Purging Systems Corporation, P.O. Box 128, Hitchcock, Texas 77563, United States of America.

3. Acceptance of Contract

The contract is made only when Seller accepts the Buyer's written Contract. Seller herewith objects to and rejects all terms and conditions contained in Contract that conflict with, are additional to, or differ from these Terms and Conditions of Sale, unless expressly accepted in writing by Seller. Seller's acceptance of Buyer's order is expressly conditioned upon Buyer written acknowledgment that these Terms and Conditions of Sale are applicable and replace any conditions which may be expressed in Buyer's documentation. In addition, receipt of full or partial payment for the Products or Services by the Buyer shall be deemed to be conclusive proof that Buyer has accepted these Terms and Conditions of Sale.

4. Variation

No variation of the Contract terms shall be allowed, unless such variation is expressly accepted in writing by Seller upon acceptance of Contract. Any documentation purporting to add to or vary from the Quotation or these Terms and Conditions of Sale produced after the Contract is accepted in writing by Seller shall be of no effect, unless specifically agreed to by both parties in writing.

5. FOB Point / Delivery / Delay / Acceptance of Products / Claims

All Products are sold F.O.B. Seller Factory, unless otherwise quoted. Delivery dates are estimates only, and Seller will strive to meet them, provided that Buyer approval to construct, supplied equipment and applicable documentation deliverables occur in timely manners to permit original Contract delivery schedule adherence. Seller reserves the right to make partial deliveries of products, and any delay of delivery or other default of any installment or part thereof shall not relieve Buyer of its obligation to accept and pay for remaining deliveries. Subject to the warranties hereinafter contained, Buyer shall be deemed to have accepted the Products as being in conformity with the published specifications of Seller and shall be bound to pay for them unless written notice of defect or shortage is issued to Seller within ten (10) days of Product receipt.

6. Shipment

Unless expressly provided to the contrary in Seller's quotation or by the terms of any purchase, Seller shall coordinate shipping on behalf of Buyer, who shall be responsible for the cost of shipment of the Products including all applicable freight insurance and all freight charges, risk of loss or damage thereto.

- a) Seller shall ship as indicated by Buyer and fully insure all Product Shipments to their full value against loss or damage. Buyer may select carrier and instruct Seller to use Buyer's freight carrier account.
- b) All shipping will be best way, F.O.B. Best Purging Manufacturing Facility in La Marque, Texas. All shipments shall be fully insured and freight charges shall be pre-paid and added to cost of Product, unless Buyer specifies alternative shipment and freight payment terms prior to Product shipment(s).
- c) Products shall be shipped from inventory or shall be built to order, at Seller's discretion, but in the case of E-Commerce Orders, shipment or build to order processes shall not be initiated until notice of Payment Settlement is received from Seller's payment processing provider. Seller strives to ship all Products as indicated by published product availability terms, but does not guarantee ship dates certain.

7. Terms / Prices / Progress Payments

Prices and progress payments are as stated in the Quotation and/or Quotation Notes. Unless otherwise stated, all quotations expire thirty (30) days from their date, and may be modified or withdrawn by the Seller prior to acceptance of Contract.

All quotation terms and prices are subject to change without notice and the following terms and conditions:

- a) Domestic Sales - Net 30 days for approved accounts. In the event Buyer fails to fulfill previous Contract payment terms, or if Seller does not approve Buyer's purchase under Net 30 terms, Seller may withhold any and all production or deliveries except upon International Sales, prepaid by Electronic Transfer.
- d) Seller reserves the right to determine terms of payment at time of Quotation, receipt of cash in advance, or Buyer's acceptance of other payment terms, such as C.O.D or payment by Credit Card. Contract may include order processing fees as required.
- e) Where it is agreed that Contract shall be fulfilled by progress payments, payment for each stage shall be invoiced and shall be separately due upon receipt, or under terms and conditions established by Seller. If a progress payment becomes overdue, the whole balance may become due without prejudice to any other rights herein stated and/or production of the affected Products may be suspended pending payment resolution. Furthermore, Seller reserves the right to reset scheduled delivery dates upon Buyer's delinquent remittance of progress payments.
- f) Upon Buyer's failure to comply with agreed terms of payment, Seller shall be entitled to interest due, as applicable under the laws of the State of Texas, in the United States of America.
- g) All prices are quoted in U.S. Dollars.
- h) Upon Buyer's failure to pay all amounts due and owing to Seller in a timely manner, Seller reserves the right to issue letters of demand for payment. If Buyer fails to respond and/or to negotiate and thereafter faithfully execute payments in a manner as negotiated, Buyer herein agrees that Seller may retain an attorney or other agent to enforce the collection of amounts due, at Buyer's sole expense for Seller's costs and collection expenses, in addition to the original amount withstanding, as determined applicable under the laws of the State of Texas, in the United States of America.

8. Taxes

Except as may otherwise be provided, the Contract price shall not include sales, use, excise, import/export duties, tariffs, etc. and similar taxes applicable to Products furnished hereunder or the material used in the manufacture thereof, or services rendered. Buyer therefore assumes responsibility for providing a Resale Tax Certificate to the Seller and for payment of applicable sales taxes.

9. Export Orders

Terms, discounts and conditions of sale for Contracts originating from or shipping to final destinations outside the U.S.A. will be furnished upon request. An export-handling fee of at least fifty dollars (\$50.00 US) may be applied to cover the costs of export document preparation.

10. Limited Warranty

Seller warrants all manufactured Product to be free from defects in workmanship or material under normal use and service in accordance with Seller's written Limited Product Warranty.

11. Suitability

Buyer assumes responsibility that the goods stipulated by Buyer are sufficient and suitable for Buyer's purposes, in so far as Buyer's stipulations are in accordance with Seller's advice and that Buyer has taken and will take all steps to ensure that the goods will be safe and without risk to health, life or property when properly installed, maintained and operated in full compliance with Seller's Installation Operation & Maintenance Manual(s).

12. Buyer's Remedies

Buyer herein accepts to provide Seller reasonable time and opportunity to rectify any Product defect prior to rejecting any Product. Buyer's exclusive and sole remedy, on account of or in respect to the furnishing of nonconforming or defective material shall be, at Seller's option, to secure repair, replacement thereof as aforesaid, or refund of the purchase price paid, upon return of the goods to Seller. Seller shall not in any event be liable for the cost of any labor expended on any material loss or for any special, direct, indirect, consequential, incidental or punitive damages in any way arising from the sale, handling, installation or use of Product sold or for any other breach of any purchase order term or other agreement between Buyer and Seller.

13. Returns / Non-Cancelable / Non-Returnable

No credit for Product return by Buyer shall be given without Seller's prior written authorization. An Authorized Material Return number is necessary and can be obtained by contacting Seller. Normally stocked items in resalable condition will be accepted for credit, subject to a reasonable restocking charge. Product may not be accepted for return after sixty (60) days from date of delivery. Custom Products, including Custom Built Purging or Pressurization Units, Custom Built Spark Arresting Purge Vents, Custom Enclosures and Purgeable Instrument Access shall not be accepted for return. Buyer shall hold any Product claimed to be defective, subject to inspection by Seller.

14. Cancellation

Cost of Order Cancellation shall be minimized when possible, depending on the time that has lapsed and the efforts that have been expended by Seller between the dates of order placement and order cancellation. With exception only to custom products, which may incur cancellation fees of up to 100% of the order value, cancellation fees shall not exceed either 1) a 10% - 20% restocking fee for standard products that have not yet shipped at time of cancellation or 2) the incurred costs of material and labor expended to date at time of order cancellation, plus 35% of the total purchase order sales amount, unless expressly modified in writing by Seller.

15. Storage

Seller reserves the right to assess reasonable charges for any expense incident to Product storage beyond delivery date upon Buyer's failure to accept delivery, or upon Buyer's request to hold Product.

16. Title to Products

Title to the Products passes to Buyer at point and time of delivery to carrier; and, thereafter, all risk of loss damages shall be assumed by Buyer. Seller assumes no responsibility beyond delivery to carrier in good order and is not responsible for loss, damage or delay occurring thereafter.

17. Rights to Designs & Drawings

Where designs and drawings are prepared by Seller for Buyer, acceptance of Contract by Seller is conditional upon such designs having been previously approved in writing by Buyer. Ownership of rights to designs and drawings made by Seller pursuant to this Contract shall belong to Seller until Buyer has rendered full payment for such rights as may be construed separately or as part of the Product, as construed by Contract, or as expressly indicated in writing by Seller. Seller reserves the right to reutilize and retain rights to standard details, and shall not be required to provide proprietary manufacturing or designs details of standard products.

18. Inspection

If testing or inspection of Product is required to be conducted or witnessed by Buyer or representative, notice of this requirement must be given at time of order placement. Seller shall give notice of readiness three to seven (3-7) days prior to such tests or inspections to occur. In the event of any delay on Buyer's or representative's part in attending such test or in performing any inspection after 3-7 days' notice of readiness, the tests will proceed and shall be deemed to have been performed with the consent of Buyer.

In any event, Buyer shall be required promptly after witnessing any test or inspection or receiving results of any witnessed or un-witnessed test to notify Seller in writing of any claimed defects of Product or of any respect in which it is claimed that Product did not conform to Contract. At Buyer's option, Buyer may make a surveillance of Seller's inspection, quality and reliability procedures, as well as data supporting same.

19. Special Handling

A special handling fee may be applied to all Contracts not exceeding \$100.00, at sole discretion of Seller.

20. Electronic Transfers

In the event Buyer and Seller engage in any electronic transfers associated with Contract, including but not limited to electronic data or facsimile exchanges, such electronic transfers shall be considered as valid and legally binding, and shall be subject to the Terms and Conditions of Contract, which Terms and Conditions are incorporated by reference into the electronic transmissions.

21. Information

Seller agrees that all information described by Buyer for purposes of Contract shall be held in confidence and be used only in performance of Contract.

22. Force Majeure

Seller shall not be liable for non-performance or delays caused by acts of God, wars, riots, strikes, fires, shortages of labor or materials, labor disputes, governmental restrictions, or any causes beyond its reasonable control. In the event of any such excused delay or failure of performance, the date of delivery shall, at the request of Seller, be deferred for a period equal to time lost by reason of the delay. Seller shall notify Buyer in writing of any such event within a reasonable period, upon Seller's knowledge of same.

23. Patents

Buyer shall hold Seller harmless against any expense or loss resulting from any infringement of patents or trademarks arising from Seller's compliance with Buyer's designs, specifications or instructions.

Seller shall settle or defend any suit or proceeding brought against Buyer so far as based on a claim that Product (or any part thereof) manufactured by Seller furnished under Contract and not used in combination with other Product, whether or not furnished hereunder constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at Seller's expense) for the settlement or defense of same and Seller shall pay the damages and cost awarded herein against Buyer or agreed upon in such settlement. Seller shall (at its own expense) either (i) procure for Buyer the right to continue using said Product or part, or (ii) furnish a non-infringing Product, or (iii) modify Product so it becomes non-infringing, or (iv) Seller for patent or trademark infringements by said Product or any part thereof.

24. Waiver of Order Cancellation Rights due to Delay of Shipment

Progress Payments are typically required for Purchase Orders exceeding Thirty Thousand Dollars (\$30,000.00) which shall be indicated in writing and shall be negotiable at time of quotation, as detailed under Section 7 above.

Upon written acceptance of Progress Payment Terms, buyer understands and is obligated to pay all required progress payments prior to shipment of any purchased products, and hereby agrees and understands that delayed shipment due to non-payment of progress invoices are incurred at the sole risk of the Buyer, and shall not be deemed as an acceptable reason or justification for cancellation of any order or termination of any purchase agreement.

25. Governing Law

This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than the State of Texas. Unless otherwise agreed in writing, the venue for any resolution of conflict shall be the County of Galveston, in the State of Texas, regarding validity, performance, and construction of any Contract resulting from placement of an order.

26. Conflict Resolution

At Manufacturer's sole discretion, any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules [including the Optional Rules for Emergency Measures of Protection]. The arbitration hearing shall take place in Galveston County, Texas before a single arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.