



Terms and Conditions of Sale

This is to certify that these units were manufactured in accordance with the instructions and also with terms of contract. No returns will be accepted unless return authorization number has been issued by Johanson Manufacturing Corp. Material received without authorization number will be returned to customer at his expense. This is to certify that the merchandise listed in this invoice has been produced in accordance with the Fair Labor Standards Act of 1938, as amended.

1. **TERMS OF AGREEMENT.** The specifications on the face hereof, together with the following terms and conditions, constitute the entire Agreement between Seller and Buyer. The terms and provisions of this acknowledgement shall be controlling. Any objections to any terms herein, including provisions which are in addition to or different from those contained in Buyer's forms, must be in writing and shall not be deemed timely unless received by Seller within seven (7) days from the date of mailing of this Agreement. If Buyer makes timely objection to any term herein, Seller shall have the right to withdraw its acceptance and this acknowledgement. Buyer's failure to object as specified will be deemed conclusive acceptance of all the terms and conditions of this acknowledgement. No acceptance by the Seller of any order shall be deemed to be an acceptance of any provision of the Buyer's purchase order form. No purchase order or written or oral agreement will modify this order, including these terms and conditions, unless specifically agreed to, in writing, by Seller. The invalidity of any provision of this Agreement will not affect the validity of any other provision.

2. **PRICES AND TERMS.** Price, terms and availability of merchandise are subject to change without notice, including but not limited to changes caused by the fluctuations in market price, availability or quality of precious metals employed in the manufacture of the goods described herein. Unless otherwise provided on the face hereof, payment hereunder shall be due net thirty (30) days from the date of shipment. All amounts past due shall bear interest at the rate of 1.5% per month or at the maximum rate allowable by New Jersey law. Seller's obligation to produce or deliver hereunder is conditioned upon continued good credit of Buyer and upon Buyer's payment when due of any sum owing by Buyer to Seller under any agreement between the parties. Based on Seller's reasonable judgment, if Buyer's financial condition at the time the merchandise is ready for shipment does not justify the terms specified, the Seller reserves the right to change these terms, to require full or partial payment in advance, or to ship the goods C.O.D.

3. **SHIPMENTS.** Shipment dates are based upon seller's best judgement and are subject to factory schedules and production limitations, and hence are not guaranteed.

4. **DELIVERY IN INSTALLMENTS.** Seller reserves the right to make delivery in installments, unless otherwise expressly stipulated herein. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining deliveries.

5. **DELAY.** Seller shall not be liable for delays in performance caused by act of God, fire or other casualty, accident, strike, shortage of labor or materials, governmental action or other cause beyond Seller's reasonable control; and the time for Seller's performance shall be extended by the period of any such delay. Seller reserves the right to apportion its production among its customers as it may determine.

6. **LIMITED WARRANTY.** Except as provided herein, seller expressly excludes all warranties, expressed or implied, including warranties of merchantability and fitness for a particular purpose. Seller warrants to buyer that all of its products shall be free from defects in material and workmanship during normal use and service. No agent, employee or representative of the Seller has any authority to bind Seller to any affirmation, representation of warranty concerning the goods sold under this Agreement, and unless an affirmation, representation or warranty made by an agent, employee or representative is specifically included within this Agreement, it is not deemed a part of the basis of this bargain and shall not in any way be enforceable.



7. **INSPECTION.** Prior to shipment. Buyer shall have the right and shall be given the opportunity to inspect the goods at the Seller's place of manufacture. Such inspection shall be so conducted, as not to interfere unreasonably with the Seller's operations, and consequent approval or rejection shall be made before shipment of the material. Notwithstanding the foregoing, if upon receipt of such material by Buyer, the same shall appear not to conform to the contract between Buyer and Seller, Buyer shall notify Seller, in writing, within thirty-five (35) days from date of shipment of the goods of such condition. Failure to give notice within the time specified shall constitute an irrevocable acceptance of the goods. No claims, of any kind, by Buyer shall be valid without notice, as specified. Buyer shall afford Seller a reasonable opportunity to inspect the material and repair or replace any materials determined by Seller to be nonconforming, No material shall be returned without Seller's consent.

8. **REMEDY FOR NONCONFORMING GOODS.** If the material furnished to Buyer shall fail to conform to the contract, or to any expressed or implied warranty as stated herein, Seller, at his discretion, shall, within thirty (30) days of notice of said non-conformity, issue credit for or shall replace such non-conforming material at the original point of delivery and shall furnish instructions for the disposition of the nonconforming material. Any transportation charges involved in such disposition shall be for Seller's account. Buyer's exclusive and sole remedy on account of or in respect to the furnishing of material that does not conform to this contract, or so any expressed or implied warranty, shall be to secure credit or replacement thereof as aforesaid. Seller shall not, in any event, be liable for the cost of any labor expended on any such material or for any special, direct, indirect, incidental or consequential damages to anyone by reason of the fact that such material does not conform to this contract, or to any expressed or implied warranty herein. No claim of any kind will be considered on materials, which have been converted, changed, processed or used in manufacture.

9. **SPECIFICATION CHANGES.** Specification changes are subject to acceptance by Seller, including price revisions and any adjustments necessary to cover material procured and processed and labor expended prior to receipt by Seller of revised specifications.

10. **FAIR LABOR. STANDARDS ACT.** The Seller represents that all items shall be manufactured or furnished in accordance with the applicable requirements of the Fair Labor Standards Act of 1938, as amended.

11. **GOVERNING LAW.** All contracts between Buyer and Seller shall be governed by and construed in accordance with the applicable laws of the State of New Jersey.

12. **NON-WAIVER.** Waiver by Seller of the breach of any of the terms and conditions of this contract shall not be construed as a waiver of any other breach.

13. **RISK OF LOSS.** Identification of the goods sold herein occurs at such time as Seller places said goods in the hands of the carrier for delivery as herein provided for. Upon identification, risk of loss passes to Buyer. Title remains with Seller until Seller receives payment for said goods.

14. **INDEMNIFICATION.** Buyer will indemnify and hold Seller harmless from, and defend Seller against, any loss, suit, claim or damage to persons or property arising out of this Agreement or Buyer's possession or use of the products provided, or any purchaser's possession or use of the products provided, which indemnity will survive the termination of this Agreement, provided that such loss, claim or damage was not caused solely by the fault of the Seller.

15. **CANCELLATION.** Any request for cancellation must be presented to Johanson in writing. JMC may accept cancellation of an order for standard parts prior to standard lead time. Within standard lead time, cancellation may be refused or subject to a cancellation charge. Request for cancellation of any non-standard parts are subject to cancellation charges up to 100%. Blanket order cancellation will be based on the original ship schedule, not on subsequent delivery re-schedules.