

## **(Energy Products Of Nevada INC, Terms and Conditions of Sale)**

Energy Products of Nevada, Inc. ("Seller") is a seller of mechanical products to the trade. Seller does not select products for the buyer or manufacture or warranty products. Buyer's purchase is made on the following terms and conditions.

**(1) Products:** (Equipment, parts, components, items, materials, assemblies) herein are of the manufacturer's standard or available construction and specifications. It is the buyer's final responsibility to determine if these products satisfactorily meet buyer's or buyer's customer's plans, specifications, and requirements. (Weights and dimensions when given are approximate unless certified in writing by the manufacturer. **(2) Selection and end use:** Sellers not in anyway liable for selection, application, or suitability of products herein for any particular use or for any installation or operational costs incurred with these products, all of the afore said being the final responsibility of the (buyer) after reviewing manufacturer's written materials, which may include, by way of example and not limitation, user requirements. Do not use or recommend products for an unintended purpose or against manufacturer's direction or recommendations. **(3) Quotations:** Seller as a service to buyer may quote orally or in writing from time to time current prices then in effect for products or services offered for sale by seller; however such prices and available quantities are subject to change without notice. Quotations may be withdrawn at any time prior to actual receipt of order and release from buyer to manufacturer and/or ship the products or provide the services described herein. Quotations shall become null and void upon the elapse of thirty (30) days from the date of quotation unless earlier withdrawn. Seller does not assume any responsibility for any variation in quantity or omission of any item in any quotation that may be required by any plan or specification or otherwise. Seller is not responsible for any typographical errors or reproduction deficiencies. Quotations for the quantities, products, and services described herein are subject to these terms and conditions only; Seller will only accept orders on these exact terms, conditions, and provisions and no inconsistent terms, conditions, provisions or modifications will be agreed to unless specifically approved in writing by an officer of the seller. The foregoing is intended as an express limitation on acceptance within the meaning of NRS 104.2207(2)(a). **(4) Purchase orders and acceptance:** Purchase orders of buyer resulting from written or oral quotations of seller shall be subject to the quantities, products, and services herein, these terms and conditions, and the written approval signed by an authorized representative of seller in the seller's acknowledgment. Any term(s), condition(s), or provision(s) of buyers purchase order which are inconsistent with these stated herein, shall not be binding on seller and shall not be considered applicable to the sale or shipment of the products or performance of the services described herein. Unless buyer shall notify seller in writing to the contrary as soon as practical after receipt of seller's acknowledgment, acceptance of seller's terms and conditions hereof by buyer shall be presumed and, in the absence of such notification, buyer's oral or written release to manufacture and/or ship the products or perform the services described herein, shall be conclusively deemed as buyer's acceptance of these quantities, products, services, terms and conditions herein. If buyer notifies seller in writing of his objections to any of the terms conditions and provisions described herein, such objections are not accepted by seller unless specifically accepted in writing signed by an officer of the seller. Seller's responsibility is limited solely to the furnishing of the products or services described herein and assumes no responsibility for any further requirements or conditions expressed in any plan, specification, purchase order, or other document. **(5) Submittal:** If specifically requested in writing by buyer at the time of purchase order, Seller shall prepare submittal data (product bulletins, descriptive data, curves, diagrams each independently as required) for written approval, corrections, or rejection by buyer, buyers customer, or customer's authorized representative. Any changes in the submitted products required by the approving authority will be at the buyer's expense and supported by a written change order in accordance with seller's terms and conditions. In case of dispute between buyer and seller of required changes or rejection of the products herein, either buyer or seller may cancel this contract in writing to the other without penalty, unless buyer has previously released to manufacture and/or ship the products in question, which in such case buyer will be fully responsible for the products and all payments as if a submittal had not been requested. In no case will seller be obligated to offer for sale or furnish any modified or alternate products to those described herein. **(6) Time of shipment:** Stated shipment dates are approximate. Seller shall not be liable or subject to any special or consequential damages for any failure to deliver or delays in delivery, for whatever reason. Buyer agrees to waive any claims for any and all such delays. **(7) Delivery and freight:** Delivery of these products shall be F.O.B. the place of shipment to buyer. Thereafter buyer assumes full responsibility for any damage or loss irrespective of seller's prepayment of freight charges. **(8) Payment:** Buyer agrees to pay seller within thirty (30) days of invoice date unless other payment terms are specified on project quotation. If seller has not received payment within these thirty (30) day terms, seller may add and receive payment from buyer interest charges at the rate of 1-1/2% per month on unpaid balance plus such other reasonable collection costs and expenses

incurred including attorney's fees, collection fees, and court costs and otherwise. Seller reserves the right to make partial invoice(s) for storage, shipments or services performed and receive payment in accordance with the above terms. Buyer agrees not to make any deductions for taxes, freight, retainages, alleged damages or otherwise from any payments due herein. **(9) Warranties:** As an essential element of this contract and as an inducement to make seller enter into this contract with buyer, buyer agrees there is NO WARRANTY, representation or condition OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE) by seller regarding the products herein. Buyer is solely limited to the Manufacturer's express written warranty, copies of which will be furnished to buyer on request. **(10) Seller's liability:** Seller's liability will be limited to the stated selling price of any defective product and in no event shall seller be liable for prospective profits or special, direct, indirect, or consequential damages of any kind caused by a product, component, or part failure. Buyer assumes all risk and liability for loss, damage, or injury to persons or property of buyer or others arising out of the use or possession of any product, component. **(11) Returns:** Products purchased herein may not be returned without the express written permission of the manufacturer or seller, as evidenced by sellers or manufacturers properly authorized return material form, of which a copy must accompany the returned material. Authorized returns shall be shipped at the expense and liability of buyer to the destination specified by the seller. **(12) Service:** Seller does not include any field or shop labor or service equipment and/or materials for the products herein unless specifically stated as an item in the body of this contract. Change, modification, cancellation: This contract can not be changed, modified, or canceled except by an officer of the seller. **(13) Jurisdiction:** This agreement will be governed and construed in accordance with the laws of the state of Nevada. **Dispute Resolution:** 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, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.