

## ITT AEROSPACE CONTROLS

### TERMS AND CONDITIONS

ITT AEROSPACE CONTROLS, A UNIT OF ITT CORPORATION,  
DESIGNATED BELOW AS "ITT", ACCEPTS THIS ORDER ONLY UPON THE TERMS AND CONDITIONS BELOW:

1. **ENTIRE AGREEMENT:** Any of the terms and conditions of Buyer's order which are inconsistent with the terms and conditions hereof are hereby objected to and rejected and shall not be considered applicable to the sale of the products mentioned herein. Unless Buyer shall notify ITT in writing to the contrary within ten [10] days after receipt of this form, acceptance by Buyer of these terms and conditions shall be inferred; and, in the absence of such notification, the shipment by ITT of the products covered herein shall be conclusively deemed to be subjected to the terms and conditions hereof. No modification hereof shall be valid unless in writing and duly signed by a person authorized by ITT.
2. **PRICES:** Prices are subject to change. Adjustment made to ITT's prices in affect at time of order placement. Unless otherwise specified on the order, prices are for the specific quantity stated and do not include taxes nor charges for transportation, engineering documentation, special packaging or marking, or testing.
3. **SHIPMENT:** All shipments will be made EXW the ITT factory unless otherwise specified. In the absence of specific instructions, ITT will select the carrier. Title to the material shall pass to the Buyer upon delivery thereof by ITT to the carrier or delivery service; thereupon, the Buyer shall be responsible therefore. Products held for Buyer, or stored for Buyer, shall be at the risk and expense of Buyer.
4. **TERMS:** Unless otherwise stated, payment terms are net 30 days from date of invoice, subject to approval by ITT of amount and terms of credit. ITT reserves the right to require payment in advance or COD or otherwise modify credit terms either before or after order acceptance of any order if for any reason Buyer's credit is or becomes objectionable to ITT. Pending correction of any objectionable credit situation, ITT may withhold shipments without incurring any liability to Buyer. When partial shipments are made, payments therefore shall become due in accordance with the designated terms of the invoice. If, at the request of Buyer, shipment is postponed for more than 30 days, payment will become due 30 days after notice to Buyer that products are ready for shipment.
5. **TAXES:** Unless prohibited by statute, Buyer agrees to pay ITT the amount of any Federal, State, City, or other tax import or export duty, tariff, or customs charge levied by any jurisdiction either inside or outside the United States which ITT may be required to pay on account of the ownership at the place of installation, or the manufacture, transportation, sale, or use of the material and equipment which is the subject of this contract.
6. **DELIVERY:** ITT acknowledged shipping dates are approximate. If Buyer's order does not expressly prohibit delivery in advance of schedule date[s], Buyer agrees to accept delivery up to sixty [60] days in advance of schedule. If conditions arise which prevent compliance with delivery schedules, ITT shall not be liable for any damage, general, consequential, or otherwise, for delay in delivery, or for failure to give notice of delay, and such delay shall not constitute grounds for cancellation. Without limiting the generality of the foregoing, ITT shall under no circumstances be responsible for failure to fill any orders when due to failure to obtain export licenses, fires, floods, earthquakes, riots, strikes, freight embargoes, or transportation delays; shortage of labor, inability to secure fuel, material, supplies or power or other energy requirements or on account of shortages thereof; acts of God or of the public enemy, any existing or future laws or acts of the Federal or any State Government [including specifically, but not exclusively, any orders, rules or regulations issued by an official of any such government] affecting the conduct of ITT's business which ITT in its judgment and discretion deems is advisable to comply with either as a legal or patriotic duty, or to any other cause beyond ITT's reasonable control.
7. **INSPECTION AND ACCEPTANCE:** Unless Buyer notified ITT in writing thirty [30] days from date of shipment of any products that said products are rejected, they will be deemed to have been accepted by Buyer. In order for the notice of rejection to be effective, it must also specify the reason[s] why the products are being rejected.
8. **PRODUCT WARRANTY:**
  - A. **Warranty:** ITT warrants that at the time of shipment that products manufactured by ITT and sold hereunder will be free from defects in material and workmanship and will conform to the specifications furnished by or approved by ITT.
  - B. **Warranty Adjustment:**
    1. ITT agrees, at ITT's option, to repair or furnish a replacement for, but not remove or install, any product or component thereof which within twelve [12] months from date of shipment by ITT, and upon test and examination by ITT, proves defective.
    2. Buyer shall notify ITT within thirty days of discovery of any defect within this warranty.
    3. No product will be accepted for return or replacement without written authorization of ITT. Upon such authorization, and in accordance with instructions by ITT, the product will be returned and shipping charges prepaid by Buyer. Replacements made under this warranty will be shipped prepaid.

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[Continued]

#### 8. PRODUCT WARRANTY (continue)

##### C. Exclusions from Warranty:

1. THE FOREGOING WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER EXPRESSED OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS, OR OTHERWISE.
2. Components purchased by Buyer from any supplier other than ITT shall bear only the warranty given by the manufacturer of that product, and ITT assumes no responsibility for the Interface of its product with any other product.
3. ITT WILL NOT BE LIABLE FOR ANY SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS, DAMAGES, OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM THE USE OF THE PRODUCTS OR ANY INABILITY TO USE THEM EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER EQUIPMENT OR MATERIAL OR FROM ANY OTHER CAUSE.
4. The warranty does not extend to any product manufactured by ITT which has been subjected to misuse, neglect, accident, or improper installation, or to use in violation of instructions furnished by ITT.
5. The warranty does not extend to or apply to any unit which has been repaired or altered at any place other than at ITT's factory by persons not expressly approved by ITT.

#### 9. PATENT INDEMNITY:

A. Patent indemnity by ITT to Buyer: ITT agrees to indemnify and hold harmless the Buyer from and against all legal expenses which may be incurred as well as damages and costs [except all consequential and special damages and costs] which may be finally assessed against the Buyer any action for infringement of any United States Letters Patent by the items delivered to Buyer hereunder provided that the Buyer shall give ITT written notice of any action, claim, or threat of patent infringement suite, either oral or written, or of the commencement of any patent infringement suit against Buyer relating to items sold by ITT to Buyer hereunder, and provided Buyer shall give ITT opportunity to elect to take over, settle, or defend any such claim, action, suit, or proceeding known to or available to Buyer, and provided further that ITT shall have the right to substitute for any such item or any part thereof claiming to infringe the patent rights of other non-infringing items which will give equally good service. If the use of any such items or any part thereof should be enjoined, ITT shall have the right, at its own expense, to take any of the following courses of action:

1. To procure for Buyer the right to continue using such item, or
2. To replace said item with a non-infringing item, or
3. To modify the item so that it becomes non-infringing, or
4. To remove said item and refund the purchase price and the transportation and installation costs thereof.

Limitation: The foregoing provisions as to patent protection by ITT to Buyer shall not apply to any of the following:

1. To any items manufactured to the design or specifications furnished by the Buyer,
2. To orders for special non-commercial items which ITT has not sold or offered for sale to the public on the open commercial market,
3. To any infringement occasioned by modification by Buyer for any item without ITT's written consent or any infringement arising from the use of an item with any adjunct or device added by the Buyer without ITT's written permission.

B. Patent Indemnity by Buyer to ITT: To the extent that items delivered hereunder are manufactured pursuant to detailed designs furnished by Buyer, Buyer agrees to indemnify ITT and hold harmless from all legal expenses which may be incurred, as well as all damages and costs which may finally be assessed against ITT, in any action for infringement of any United States Letters Patent by such items delivered hereunder. ITT agrees promptly to inform the Buyer of any claim for liability made against ITT with respect to such items, and ITT agrees to cooperate with the Buyer in every way reasonably available to facilitate the defense against any such claim.

10. **LIMITATION OF LIABILITY:** ITT will not be liable for any loss, damage, cost of repairs, incidental or consequential damages of any kind, whether or not based upon express warranty or implied warranty [except for the obligations assumed by ITT under the Product Warranty Clause] contract, negligence, or strict liability arising in connection with the design, manufacture, sale, use, or repair of the products. In no event will ITT be liable to Buyer for any amount in excess of the purchase price of the individual product which proves to be defective.

11. **MODIFICATIONS:** Unless otherwise provided, ITT reserves the right to modify product specifications of products ordered by the Buyer herein providing that the modification will not materially affect form, fit, or function.

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[Continued]

12. **TOOLING:** Unless otherwise expressly provided, ITT shall retain title to and possession of any models, patterns, dies, molds, jigs, fixtures, tools, and test equipment made for or obtained for the performance of the order.
13. **TERMINATION:** In the event of the complete or partial termination or cancellation of the order for the convenience of the Government, settlement shall be made by negotiations in accordance with Section 52.249-2 of the Federal Acquisition Regulation, Termination For Convenience of the Government [Fixed Price]. In existence as of the date of this agreement, the words "Government" and "Contracting Officer" shall mean Buyer, the word "Contract" shall mean the order, and the word "Contractor" shall mean ITT. Delete subparagraph [c]. In paragraph [d], delete "one year and" substitute "six months". In paragraph [k], delete "90 days" and substitute "45 days". In the event Buyer attempts to terminate or cancel this order, in whole or in part, where it is not for the convenience of the Government, it shall constitute a breach of contract unless consent to such termination or cancellation is obtained by Buyer from ITT in writing. In any event, the price of all items delivered and all items which have been finished but not yet delivered will be adjusted upward to the applicable quantity break, if any, for the lower quantities.
14. **COMPLIANCE WITH FEDERAL STATE AND LOCAL LAWS:** ITT shall comply with all federal, state, and local laws and regulations applicable to its performance of its obligations hereunder including [to the extent applicable and without limits on]: Fair Labor Standards Act of 1935, as amended, Williams Singer Occupational Safety and Health Act of 1970, as amended, Welsh-Hesley Public Contracts Act of 1970, as amended, and the equal employment opportunity and affirmative action clauses prescribed by statute [Public Laws 90-202, 93-112, 92-540, 95-507], executive orders [1124B, 11375, 11825, 11701, 11758], and regulations regarding race, color, religion, sex, age, national origin, physical or mental handicap, veteran status, small business, small disadvantaged business, and women-owned business concerns.
15. **SUPPLEMENTAL CLAUSES FOR EXPORT ORDERS:**
- A. **Currency:** The prices quoted herein are payable in United States Dollars.
  - B. **Proof of Export:** The products are to be purchased only for export, and the Buyer agrees to furnish ITT with proof of exportation of all or any part of such products within five months from the date of the ITT invoices therefore. If exportation of any part shall not have occurred within said five months, Buyer agrees to pay ITT upon demand the amount of any manufacturer's excise tax or other tax which now or hereafter may be imposed on the sale of such products for consumption within the United States.
  - C. **License and Permit Requirements:**
    - 1. ITT will execute all export licenses and permits required by the United States Government, and Buyer will furnish reasonable cooperation in acquiring such licenses and permits. If such licenses and permits are not paid for by Buyer, such payments will be added to the contract price.
    - 2. Buyer will secure all licenses and permits required by the foreign government, and ITT will furnish reasonable cooperation in acquiring such licenses and permits. The delivery schedule is contingent upon securing all necessary licenses and permits.
    - 3. Failure to obtain a required license or permit in sufficient time to permit delivery within the time set forth in the contract, and without fault or negligence of the contracting parties, shall occasion an equitable adjustment in the delivery schedule.
16. **NON-WAIVER:** Any failure at any time of ITT to enforce any provision of this order shall not constitute a waiver of such provision or prejudice the right of ITT to enforce such provisions at any subsequent time.
17. **GOVERNING LAWS:** The terms of this Agreement and all rights and obligations hereunder shall be governed in accordance with the laws of the State of California without giving effect to any rules governing conflicts of law. Buyer hereby consents and submits to the jurisdiction of the appropriate courts in the State of California for adjudication of any question of law or fact arising hereunder.

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Aerospace Controls

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