



Graver Technologies

TERMS AND CONDITIONS

1. **Quotations.** Unless otherwise specified in writing, quotations are valid for 30 days. Prices quoted do not include any sales, use, excise, occupational or other similar tax or freight unless otherwise specified.
2. **Scope.** Seller intends to provide the goods and services shown on the reverse side.
3. **Acceptance.** All orders are subject to approval and written acceptance by an authorized representative of Seller. No product may be returned without Seller's prior written approval. Any changes require written consent and may result in a change in price, delivery, payment or performance warranties.
4. **Delivery/Force Majeure.** Delivery lead times are based on receipt of timely and accurate information from Buyer. Products are subject to prior sale. Seller assumes no liabilities for delays or non-performance resulting from, but not limited to, Acts of God, fire, explosion, flood, war, terrorism or threats of terrorism, act of or authorized by any government, accident, labor trouble or shortage, inability to obtain equipment, material, transportation or any acts beyond the control of Seller. Delivery to carrier shall constitute delivery to Buyer and all risk of loss or damage in transit shall be borne by Buyer. If, because of Buyer's inability to take delivery, the products are not shipped or returned, Seller may have them stored for Buyer at Buyer's expense, risk, and account, and for all other purposes they shall be considered "shipped". Buyer shall unload, handle, store and install the products in accordance with generally accepted practice or specific instructions provided for the equipment, membranes and/or media.
5. **Packaging.** All items sold hereunder shall be packed or crated and shipped in accordance with Seller's specifications. Any special packing, crating, shipping or unloading requirements of Buyer must be agreed upon by Seller in advance. Weights listed, if any, are approximate.
6. **Inspection.** Buyer shall inspect goods upon arrival and shall give written notice to Seller and carrier within 10 days of any damage or shortage. Failure to give such written notice of any damage or shortage will constitute satisfactory shipment by Seller and acceptance by Buyer of all items listed as contained.
7. **Repairs and Alterations.** Any repairs or alterations made to goods shall void all warranties and be at the expense of Buyer unless specifically authorized in writing by Seller. In no event shall Seller accept back charges for unauthorized repairs or alterations.
8. **Warranty.** Seller warrants its products against defects in workmanship and material for a period of the lesser of the shelf-life of the product or twelve (12) months from date of shipment from the factory under normal use and service when such product is used in accordance with instructions furnished by Seller. Specifications provided by Seller are guidelines only and the particular use and application will determine the actual life of the product, media or membrane. Seller's liability under this warranty shall be limited to the replacement or repair, at Seller's sole discretion, F.O.B. factory, of any defective product which having been returned to the factory, transportation charges prepaid, has been inspected and determined by Seller to be defective. The warranty on component parts not manufactured by Seller is limited to that of the manufacturer thereof, if any. The foregoing warranties do not cover reimbursement for labor, transportation, removal, installation, or other expenses which may be incurred in connection with replacement or repair.

THE FOREGOING WARRANTIES ARE BUYER'S EXCLUSIVE REMEDY AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.
9. **Disposal.** Buyer shall be responsible and fully liable for the disposal of any product, including, without limitation, spent product or material, and shall perform such disposal in compliance with all federal, state and local laws and regulations relating thereto.
10. **Limitation Of Liability.** Under no circumstances shall Seller be liable to Buyer or any other person or entity for incidental, consequential, direct, exemplary, punitive or special damages or any other losses or expenses, including without limitation, for injuries to persons or damage to property, loss of profit or revenues, cost of substitute products, loss of use, downtime costs, or claims of Buyer's customers even if Seller has been advised of the possibility of such damages. Seller's aggregate liability arising out of or relating to any products purchased shall not exceed the purchase price actually received by Seller for the allegedly defective products.
11. **Service.** Upon reasonable request, Seller may make available to Buyer the services of a trained representative at Seller's then current prevailing rates, plus travel, living and out of pocket expenses. In no event shall charges for technical direction of field installation and/or start-up be considered as included in the quoted price unless otherwise expressly stated in writing by Seller.
12. **Indemnity.** Seller shall defend, indemnify and hold Buyer, its agents and employees harmless from and against all suits (including reasonable attorneys' fees), including death or injury, arising out of or relating to claims that Seller designed products infringe any United States intellectual or proprietary rights, provided, however, that Buyer gives to Seller immediate notice in writing of the institution of such suit, and permits Seller, through counsel chosen by Seller, to defend same, and give Seller all information in Buyer's possession and reasonable assistance and authority to enable Seller so to do. Seller shall have no liability or obligation to Buyer for suits of infringement of any United States intellectual or proprietary rights resulting from Buyer provided specifications, structure, operation, material, or method of making products. Buyer shall defend, indemnify and hold Seller, its agents and employees harmless from and against all suits (including reasonable attorneys' fees), including death or injury, arising out of or relating to Buyer's (i) provided specifications, structure, operation, material, or method of making products, including, without limitation, any resulting violation of intellectual or proprietary rights, (ii) use, misuse or disposal of products or materials, and (iii) breach of these Terms and Conditions by Buyer.
13. **Payment Terms.** All payments are due at location stated on invoice. Custom products require four progress payments of 25% each to be paid to Seller upon order, approval of drawing, Seller's ordering of raw materials and shipment. All other products are net cash within 30 days of shipment unless otherwise expressly stated in writing by Seller. Invoices not paid when due are subject to a late payment service charge of the lesser of 1-1/2% (one and one half percent) per month or the maximum legal service charge permitted under the law. If Buyer fails to make any payment when due, Buyer shall be liable for all expenses related to collection of past due amounts, including, without limitation, attorneys' fees and costs.
14. **Cancellation.** Custom orders may not be cancelled. Cancellation of standard in-stock products are subject to a 25% re-stocking fee.
15. **Compliance:** Seller hereby certifies that the products sold of its manufacture will be produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act, as amended, and all orders of the United States Department of Labor issued under Section 14 thereof. Seller further certifies that it is in compliance with the Equal Employment Opportunity Section 202, paragraphs 1 through 7 of Executive Order 11246, as amended, relative to equal employment opportunity and the implementing Rules and Regulations of the Office of Federal Contracts Compliance. The products furnished herein may not comply with all Federal, State, or local laws, regulations or ordinances unless expressly agreed to in writing.
16. **Typographical Errors.** Seller is not responsible for typographical errors made in any of its publications or for stenographic or clerical errors made in preparation of quotations, sales orders or acknowledgments. All such errors are subject to correction.
17. **Applicable Law:** The laws of the State of Delaware shall govern this Agreement and the courts of Delaware shall be the exclusive venue and jurisdiction.
18. **Arbitration:** In case of any controversy, claims, or disputes arising out of our relating to this Agreement or the breach thereof, the parties shall meet and exert their best efforts to reach an amicable settlement. In the event the parties fail to reach an agreement, the sole and exclusive method to settle any matter shall be arbitration at the request of any party, conducted in the English language, and shall take place in Wilmington, Delaware. The arbitration tribunal shall be composed of three arbitrators appointed pursuant to the procedures set forth in the rules of the American Arbitration Association. Judgment may be entered on the award by any competent court having jurisdiction. Neither party shall have the right of discovery during the arbitration process.
19. **Governance.** Buyer and Seller each agree that these terms and conditions shall govern and control with respect to all orders by Buyer from Seller, and no term, condition, warranty or representation appearing in any purchase order of Buyer or order acknowledgment, invoice or other sales documentation of Buyer, will govern unless agreed to in writing by Seller.
20. **Nondisclosure.** Neither party hereto shall disclose any information regarding any of the subject matter hereof or proprietary technical information received from the other party, except to the extent that disclosure is required by law or is otherwise agreed to in writing by the parties.
21. **Severability.** In the event that any provision herein shall be found to be void or unenforceable, this shall not be construed to render any other provisions void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by the Parties.
22. **Changes.** Any changes or revisions to these terms and conditions must be authorized by Seller's President or Vice-President of Finance.
23. **Entirety.** These terms and conditions together with the exhibits referenced and attached hereto embodies the entire understanding between Buyer and Seller and there are no agreements, understandings, conditions, warranties, or representations, oral or written, expressed or implied, with reference to the subject matter hereof which are not merged herein.