



## WESTECH INDUSTRIAL LTD. TERMS AND CONDITION OF SALE

### A. General

1. Customer's Order ("goods, services, or any other commercial or technical purchase") is binding only when accepted in writing at the principal office of Seller. Any order based upon a proposal will be subject to cancellation by Westech Industrial Ltd. without consent. The terms and conditions of sale are only those stated below. If any other terms and conditions are in Customer's Order, they are hereby rejected unless independently approved in writing by our authorized representative at the Seller's office. All Orders are subject to approval and acceptance by our principals at their respective head offices. All quotations are subject to examination, review, increase in price or withdrawal before acceptance of Order based on the quotation. Clerical or typographical errors are subject to correction. The parties agree there are no agreements between the parties, oral or written, with respect to the goods sold hereunder (including any made or implied from past dealings) except as expressed herein.
2. Any Order based on a proposal by Westech Industrial Ltd. must be submitted within 30 days. Shipping dates are estimates only and are not guaranteed. We will use every effort to make shipments as scheduled and may make partial shipments. However, the completion of the Order is subject to acts of God or the public enemy, fires, floods, unusually severe weather, delays caused by governments (including government priorities, preferences or allocations), delays of suppliers in furnishing materials and services, and any other causes beyond our control. In the event that delays occur which are beyond our control, and it is not reasonably possible for us to make delivery at the date or dates specified, we may deliver at a later date by a period of time equal to the duration of the delaying or preventive cause.
3. If the items ordered are to be exported from the Canada, the quoted shipping dates are subject to receipt of all export documents and authorizations. Regardless of ultimate destination, the prices quoted are based on packing for domestic shipment unless otherwise stated.
4. Prices quoted, unless otherwise stated, are F.O.B factory and do not include sales, use, excise or similar taxes or duties. Customer will pay these items directly if the law permits or will reimburse us if we are required to pay them. Customer will provide tax exemption certificates or evidence of tax payment on request. As all of our prices from principals that Westech Industrial Ltd represents are subject to change without notice we are obliged to so quote hereunder. Prices including duty, exchange, sales tax, goods and services taxes and freight are based upon the respective rates figured by us and are subject to change, up or down, according to variations in tariffs as applied at the time of delivery. All prices, unless otherwise stated, are payable in Canadian Funds. Sales taxes or other imposts assessed by authorities foreign to Canada will be charged extra. Provincial sales taxes, Federal Sales Taxes, goods and services taxes and other imposts assessed by authorities foreign to Canada or Canadian authorities will be charged extra unless stated otherwise in our proposal.
5. In the event credit has not been established we reserve the right to require payment, or the issuance of an irrevocable letter of credit, in advance of shipment. Terms of payment are Net 30 days, any amounts not paid when due shall bear interest at the rate of 1 1/2% per month or at the highest rate permitted by law (whichever is less), from the date of shipment until paid. We reserve a purchase money security interest in each item shipped, which will be satisfied by payment in full. We have the right to file a copy of this document as a financing statement.
6. Customer's Order will be deemed a representation that Customer is solvent and able to pay for the items ordered. If Customer fails to make payments when due or if bankruptcy or insolvency proceedings are instituted by or against Customer, or if Customer makes an assignment for the benefit of creditors, Customer will be deemed in default and we will have the right to terminate our obligations by written notice to Customer, but such termination will not affect Customer's obligation to pay for items delivered and work in progress.
7. No goods may be returned without prior written approval of Seller. Orders placed with and accepted by Seller may not be canceled except upon Seller's written consent prior to shipment and Buyer's acceptance of Seller's cancellation charges, which shall protect Seller against all costs and losses. Seller's standard restocking charge is 30% of the Order or item selling price to the Buyer. Seller reserves the right to cancel any sale hereunder without liability to Buyer (except for refund of monies already paid), if the manufacture or sale of the goods is or becomes technically or economically impractical.
8. If the items quoted are to be used in fulfilling a contract with the United States Government we agree to comply to the best of our ability with the applicable government contract provisions that are mandatory under federal law and regulations such as provisions respecting equal opportunity employment, military security requirements, Walsh-Healy Act and so on, provided Customer has given us notice of the applicable provisions and we have not objected in writing to them.
9. Seller reserves the right to discontinue the manufacture of, or change or modify the design and/or construction of the goods sold pursuant to this document, without incurring any obligation to Buyer.
10. If this Order is shipped from the United States, the laws of the State from which this Order is shipped shall govern all questions relating to this sale. If this Order is shipped from outside the United States, then this sale shall be governed by the United Nations Convention on Contracts for the International Sale of Goods, as amended, to the extent it is not inconsistent with these terms and conditions. All Orders shipped from a Canadian Location will be subject to the laws of Alberta, Canada.
11. Purchase Order Terms of Payment: The CUSTOMER to receive order of acceptance must agree to pay net 30 days from the date of invoice unless otherwise agreed in writing between the CUSTOMER and the COMPANY.



**B. Title and Damage in Shipment**

12. All items should be inspected and tested as soon as received. If any damage is discovered, a claim should be filed with the carrier. A full report of the damage should be forwarded to us so that we can arrange for repair or replacement.
13. If this sale is F.O.B Factory, title to items passes to Customer when delivered to carrier, and we are not responsible for damage or loss in transit. We can arrange for in-transit insurance at Customer's expense, but will not do so without Customer's written instructions. If this sale is F.O.B destination, title to items passes upon tender of delivery by carrier to Customer, and if items are damaged we must receive Customer's claim for loss or damage in transit within ten (10) days after receipt of shipment, which must be signed by the carrier.

**C. Warranty**

14. All items that we manufacture are warranted, when paid for and properly installed, operated and maintained, to be free from defects in material and workmanship and to conform to the specifications, if any, listed on the other side of this form. If no specifications are listed, the items are warranted to conform to our currently published specifications.
15. The warranty period is one year from the date of installation by the first user of the goods, or eighteen (18) months from the date of shipment to the first user, whichever occurs first.
16. No warranty is given for products or components (such as electric or pneumatic mechanisms) manufactured by companies not affiliated by ownership with Seller, or for goods which have been subject to misuse, use in incorrect environmental conditions, improper installation, improper application, corrosion or improper preventive maintenance, or which have been modified or repaired by unauthorized persons. We must receive written notice of defect within the warranty period.
17. Our liability is limited to servicing or adjusting any item returned to the factory for that purpose, including replacing any defective parts therein. Customer must pay packing, crating and transportation costs to and from the factory. At Customer's request, we will make reasonable efforts to provide warranty service at the Customer's premises, provided the Customer pays our then current rates for field service and the associated travel and living expenses. If a fault has been caused by improper installation, maintenance or use, or by abnormal conditions of operation, repairs will be billed at normal rates. If any fault develops, the following steps should be taken: Notify us by giving the item model number, serial number and details of the difficulty. On receipt of this information, you will be given service data or shipping instructions. On receipt of shipping instructions, forward the item prepaid. If the item or the fault is not covered by warranty, an estimate of charges will be furnished before work begins. All statements and guarantees covering designs, materials, workmanship and performance are those of the respective manufactures or the equipment and material herein that is quoted upon. We do not in our own name or for ourselves underwrite any such statements or guarantees of manufactures we represent.

WE DISCLAIM STATUTORY AND IMPLIED WARRANTIES, SUCH AS WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE. WE ALSO DISCLAIM ALL WARRANTIES REGARDING ANY ANCILLARY SERVICES RENDERED.

**D. Health & Safety**

18. Buyer will maintain safe working conditions at site, including: appropriate procedures regarding Hazardous Materials, energizing and de-energizing power systems, installation and maintenance of goods, and the use safe lock-out/tag-out procedures.
19. The Buyer is responsible for properly storing, transporting, and disposing of all Hazardous Materials introduced or produced at the site. The Buyer will indemnify the Seller of any claims, damages, losses, and/or expenses related to Hazardous Materials that were or are present at the Buyer's equipment or site prior to the Seller's work; or were handled, disposed of, introduced or generated at site by parties' other than the Seller.
20. Buyer will advise the Seller in writing of all applicable site-specific health and safety requirements and procedures. Seller has the right but is not required to review and inspect applicable health and safety documentation, procedures and conditions at the site. Buyer will disclose to Seller health and safety data regarding conditions that may impact the Seller's work or personnel at the site, and notify Seller of any changes to these conditions.
21. If the Seller determines that the health and safety of their personnel at the site is endangered by improper health and safety conditions, including: threat or exposure to Hazardous Materials and unsafe working conditions the Seller may remove some or all of its personnel from the site and suspend performance of part of or all of the work.
22. If the Seller encounters Hazardous Materials in the Buyer's equipment or at the site requiring special handling or disposal, the Seller is not obligated to continue work that is impacted by these conditions. The Buyer is responsible for eliminating the hazardous conditions in accordance with applicable laws and regulations so the Seller's work may continue safely
23. Seller will notify the Buyer if the conditions at the site differ from those disclosed by Buyer. If these unexpected conditions impact the Seller's cost, time, or performance of work, an adjustment will occur in price and schedule to account for these changes.

**E. Confidential Information: Patent Indemnity**

24. Any drawings submitted herewith are to show only the general style, arrangement, and approximate dimensions of the goods offered. No work is to be based on drawings unless the drawings are certified. In no event will manufacturing or proprietary drawings be supplied.



25. Buyer agrees that all drawings, prints and other technical material which Seller provides to Buyer, whether prepared by Seller or by third parties under contract to Seller, contain data which embody trade secrets and confidential know-how of commercial value to Seller or third parties under contract to Seller. Buyer agrees (a) to keep such information confidential; (b) that it will not disclose such information to any other person, corporate division or entity; (c) will not use such information except in connection with the goods supplied hereunder; and (d) will not sell, lease, loan or permit any other person, corporate division or entity to use such information for any purpose, without Seller's prior written consent. Nothing herein shall restrict the use of information available to the general public.
26. We have the right to defend or, at our option, to settle and we agree, at our own expense, to defend or settle, any claim, suit or proceeding brought against Customer based on a claim of infringement of any United States or Canadian patent by any item supplied to Customer under this Order. We agree to pay any final judgment entered against Customer based on such a claim provided.
  - a. Customer must notify us promptly in writing of any such claim, suit or proceeding, and
  - b. Customer must give us proper and full information and assistance to settle and/or defend any such claim, suit or proceeding at our expense. If an item furnished to customer becomes or in our opinion, may become the subject of any claim, suit or proceeding for infringement of any United States patent, we may at our option and expense (i) obtain for Customer the right to use, lease or sell the item, (ii) replace the item, (iii) modify the item, or (iv) remove the item and refund the purchase price paid by Customer less a reasonable amount for use, damage or obsolescence.
27. We will not be liable for any infringement arising from the combination of items or from the use of an item in practicing a process. Our total liability to Customer will not, under any circumstances exceed the purchase price paid for the allegedly infringing item. Customer agrees at its expense to protect and defend us against any claim of patent infringement arising from compliance with Customer's designs, specifications or instructions and to hold us harmless from damages, costs and expenses attributable to any such claim. The foregoing states the exclusive remedy of the Customer for any alleged patent infringement by an item supplied under this Order.
28. The Seller may determine that a non-disclosure agreement is required, if so, the Seller will provide the Buyer with Westech's Protection of Proprietary Information Agreement.

**F. Freedom of Information and Protection of Privacy Act (FOIPP)**

29. All documents and information, including books, maps, drawings, photographs, letters and information that is written, photographed, recorded or stored in any manner submitted to the Company in respect to projects, are records in the custody and control of Westech Industrial Ltd. As such, they may be subject to the access and privacy provisions of the FOIPP Act (Alberta) and other legislation, whether currently in force or enacted in the future. The FOIPP Act may give a person the right to access the records in the custody or control of the Company, subject to limited and specific exceptions.
30. The Project Manager shall ensure that hired consultants/contractors are advised that the FOIPP Act applies, and that Vendors and contractors are aware of the process and requirements should a FOIPP Request for Information or Privacy Breach occur. All parties acknowledge that the FOIPP Head of Local Body retains sole authority when making decisions regarding disclosure of records, and that any such decision can be subject to Review by the Privacy Commissioner. The Vendor should seek its own legal advice on specific aspects of these obligations.

**G. Limitation of Damages**

31. IN NO EVENT SHALL WESTECH INDUSTRIAL LTD. BE LIABLE, IN CONTRACT, TORT, STRICT LIABILITY, LAWS RELATING TO THE PROTECTION OF THE ENVIRONMENT, OR UNDER ANY OTHER LEGAL THEORY, FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER WE WERE INFORMED ABOUT THE POSSIBILITY OF SUCH DAMAGES, AND IN NO EVENT SHALL WESTECH INDUSTRIAL LTD'S LIABILITY EXCEED AN AMOUNT EQUAL TO THE SALES PRICE.