

Devar, Inc. Terms and Conditions of Sale (Rev. 01/2020)

1. Terms and Conflicting Forms:

These conditions apply to every sale and to every contract for sale of goods supplied or to be supplied by Devar, Inc., the seller. The company, firm, or person to whom any such goods are sold or with which or whom such a contract for sale is hereinafter referred to as “the Buyer”. None of these conditions can be waived and may not be changed other than in a document signed by a duly authorized officer of Devar, Inc. Any purported waiver or variation made otherwise shall be void. Any standard terms of the buyer are excluded from every such sale and contract for sale, and in all circumstances these conditions shall prevail without modification or exception. To the extent that Devar, Inc.’s quote or acknowledgment constitutes an acceptance by Devar, Inc. of an offer by the Buyer the acceptance is expressly conditional on the customer’s assent to Devar, Inc.’s Terms and Conditions. Any additional or different terms in Buyer’s Purchase Order or other forms, are hereby deemed material alterations and notice of objection to them and rejection of them is hereby given. Buyer’s written acceptance of Devar, Inc.’s Terms and conditions, without revision, within ten (10) days of receipt of acknowledgement, constitutes a binding contract and commencement of order fulfillment shall be initiated. In absence of Buyer’s written acceptance of Devar, Inc.’s Terms and Conditions, acceptance of delivery of any product covered by the Purchase Order shall constitute acceptance of these terms and conditions.

2. Prices:

Prices are exclusive of all Federal, State, Municipal, or any government excise, sales, use, occupational or like taxes, tariffs, custom duties, and importing fees. Any future Sales, use, excise or other tax applied directly to the sale hereunder shall be paid by the customer or in lieu thereof the

buyer shall provide a tax exemption certificate acceptable to the taxing authority.

3. Payment:

Standard terms of payment are net cash in US Dollars 30 days following shipment, unless otherwise specifically provided herein. Payment must be received by Devar, Inc. in full, without set-off or other deduction no later than the due date. However, at its option, Devar, Inc. may require full or partial payment in advance of shipment. On overdue accounts, interest will be charged at a rate of 1 ½% per month. In the event of failure of the Buyer to make payments for any installment of goods when due, the Devar, Inc. may withhold further delivery until the default has been remedied or may require that subsequent deliveries be paid for in cash upon delivery. Material held for Buyer shall be at the risk and expense of the Buyer.

4. Force Majeure:

Devar, Inc. will deliver as specified herein, but shall not be liable for delays in delivery occasioned by force majeure or any other cause beyond its control, including but not limited to war, civil disturbance, fire, flood, earthquake, windstorm, acts or defaults of common carriers, governmental laws, acts or regulations or any other occurrences whether or not similar in character for the foregoing beyond Devar, Inc.'s control.

5. Shipments, Inspection and Acceptance:

Shipments made F.O.B. Devar, Inc.'s plant shall be at the risk of the Buyer who shall make all claims to the carrier in the event of damage to shipped material or losses in transit. Final acceptance or rejection of goods shall be made within ten (10) days after delivery to the Buyer. Buyer shall notify Devar, Inc. promptly, in writing, of any shortage or rejection.

The goods shall be deemed accepted within sixty (60) days after delivery to Buyer unless prior notification was received by Devar, Inc.

6. Warranty:

Devar, Inc. warrants the products, goods, and materials (herein called "products") to be free of defects in material and workmanship under normal and proper use in accordance with the instructions and directions of Devar, Inc. applicable thereto. Devar, Inc. further warrants that all products sold will conform to specifications, drawings, or descriptions of Seller which are applicable thereto, and at the time of sale. Devar, Inc. shall have title to and the right to sell same. NO OTHER WARRANTY EXPRESS OR IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW) IS MADE OR GIVEN BY DEVAR, INC., and any other representation or warranties made by any person, including employees or representatives of Devar, Inc., which are inconsistent herewith, shall not be binding upon the seller. Devar, Inc.'s warranty shall not apply to such products that have been altered or utilized in a manner not approved by the Devar, Inc., or subjected to misuse, improper maintenance, negligence or accident, or damage by excessive current or otherwise. Buyer must notify Devar, Inc., in writing, claiming defective material within one hundred eighty days after shipment. Absence of such notice constitutes a waiver by Customer of all claims for defect. Software, sensors, custom, and obsolete products are non-returnable. Product may not be returned Devar, Inc. until Buyer is in receipt of and RMA (Return Material Authorization) from Devar, Inc. Product shall be returned at Buyer's expense. Devar, Inc. will inspect all returned product. If returned product qualifies, Devar, Inc. will, at its option, either replace the product or credit the Buyer, but Devar, Inc. will not be liable for loss damage, or expense directly or indirectly arising from the use

of the product or from any other cause. If in Devar, Inc.'s judgment the product does not qualify for the return, Devar, Inc. reserves the right to reject the Buyer's return and will ship the product back to the Buyer at the Buyer's expense. Devar, Inc. shall not be liable for any loss or damage resulting from the handling or use of the product shipped, whether in the manufacturing process or otherwise.

7. Limitation of Liability:

NOTWITHSTANDING ANYTHING ELSE CONTAINED HERETO TO THE CONTRARY, IN NO EVENT WILL DEVAR, INC. BE LIABLE TO BUYER FOR ANY CIRCUMSTANTIAL, CONSEQUENTIAL, CONTINGENT EXEMPLARY, INCIDENTAL, INDIRECT, LIQUIDATED, MATERIAL, PUNITIVE, SPECIAL, SPECULATIVE OR OTHER DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, SALES OR REVENUES, COST OF REPLACEMENT GOODS, LOST BUSINESS OR BUSINESS INTERRUPTIONS, OR ATTORNEY FEES OR COURT COSTS ARISING IN ANY MANNER PURSUANT TO OR IN CONNECTION WITH THE AGREEMENT, THE GOODS OR THE SERVICES (EVEN IF DEVAR, INC. IS MADE AWARE OF THE POTENTIAL FOR SUCH DAMAGES); AND DEVAR, INC.'S TOTAL LIABILITY RELATED TO ANY GOOD OR SERVICE SHALL NOT EXCEED THE PURCHASE PRICE OF SUCH GOOD OR SERVICE.

8. Cancellation, Amendment and Rescheduling Charges:

In the event that the Buyer cancels, amends, or reschedules delivery, in whole or in part, of any of the product covered in the Purchase Order, the Buyer agrees to pay to Devar, Inc., the following charges:

- a. Progress Payment: Buyer agrees to pay all charges which have been incurred in conjunction with the

cancelled, revised, or rescheduled items. Devar, Inc. shall make the sole determination as to charges incurred on an actual or percent of completion basis including labor, materials, purchased items, overhead, profit, vendor cancellation charges and other related charges; and

- b. Cancellation, Amendment and Rescheduling Charges: Buyer agrees to pay a cancellation, amendment, or rescheduling charge equal to 25% of the Purchase Order price of the items so affected.

The aforementioned charges as defined in (a) and (b) above shall be payable within thirty (30) days of the receipt of invoice for such charges. All cancellations, amendments and rescheduling must be made in writing to Devar, Inc. and shall be effective as of the date of the receipt of written notification.

9. Confidential Information:

Devar, Inc. shall have and retain all rights, title, and interest in and to any and all trade secrets, technical data, sales service and product plans, methodologies, techniques, designs, engineering drawings, samples, systems, know-how, expertise, and other proprietary information in any format. All Confidential Information disclosed by Devar, Inc. remains the sole property of Devar, Inc. and it shall not be used directly or indirectly by the Buyer to manufacture and/or sell product that is based in whole or in part on Devar, Inc.'s Confidential Information. Devar, Inc.'s Confidential information cannot be copied or modified or disclosed to any third party for any purpose which includes performing repair, construction, inspection or maintenance without first obtaining express prior written permission of Devar, Inc., which consent may be withheld in Devar, Inc.'s absolute and sole discretion.

10. Governing Law:

The negotiation, execution, performance, termination, interpretation and construction of any contract with Devar, Inc. will be governed by the law of the State of Connecticut, excluding its conflict law provisions. If either Devar, Inc. or the Buyer brings a lawsuit or any other action arising out of this contract against the other party, such party must file its lawsuit in a state or federal court located in Bridgeport, CT. Devar, Inc. and the Buyer expressly agree that the U.N. Convention on Contracts for the International Sale of Goods shall not apply and is specifically excluded.

11. Entire Agreement and Assignments:

Devar, Inc. Terms and Conditions constitute the entire contract agreement between Devar, Inc. and the Buyer with respect to the transactions described in the Quote or Acknowledgement and may not be amended or modified in any manner other than by written agreement executed by an authorized representative of Devar, Inc.

12. Binding Authority:

Any director, officer, employee, representative, or agent of Buyer signing or otherwise entering into this Contract agreement hereby represents and warrants that he or she is duly authorized to execute and enter into this Contract Agreement on behalf of the Buyer.

13. Access to Audit:

The scope of any type of audit requested by the Buyer must be clearly defined as which processes are to be audited. If deemed acceptable by Devar, Inc., a quote will be provided to the Buyer for such audit services. All audits will be priced on a per diem and per auditor basis. There will be no access to the Devar, Inc. facility for an audit unless by a signed agreement with an authorized representative of Devar, Inc.

Devar, Inc. shall have and retain all rights, title, and interest in and to all trade secrets, such as, but not limited to, formula, design, methodologies, technique, engineering drawings, technical data, know-how, expertise, and other proprietary information in any format. Compilation of any information, including Devar, Inc.'s manufacturing methods or processes, composition of materials and tooling shall be kept confidential by the Buyer. All confidential information disclosed by Devar, Inc. remains the sole property of Devar, Inc. and cannot be copied modified in whole or in part or disclosed to any third party for any purpose which includes, performing repair, construction, inspection, and maintenance. Buyer shall not use such data to redesign, reverse engineer, replicate, manufacture (or enable manufacture by itself or any third party) the goods, products similar without first obtaining express prior written permission of Devar, Inc., which consent may be withheld in Devar, Inc.'s absolute and sole discretion.

Acceptance of Devar, Inc. Terms and Conditions of Sale

Devar, Inc.'s acceptance of Buyer's purchase order is expressly made conditional on Buyer's acceptance of Devar, Inc.'s Terms and Conditions of Sale, which are in lieu of any additional or different terms contained in Buyer's purchase order. Within 10 days of receipt of Devar, Inc.'s order acknowledgement for Buyer's purchase of goods or services, an authorized representative of the Buyer's Purchasing Department shall acknowledge the acceptance of Devar, Inc.'s Terms and Conditions of Sale.

Accepted By: _____ Date: _____
Signature Title