

GENERAL SALES AND DELIVERY TERMS AND CONDITIONS

PRICES:

Prices quoted and/or acknowledged are based on current cost of material and labor. Any increase in price at the time of delivery shall be subject to mutual agreement confirmed in writing. All prices are exclusive of taxes, excise or other charges which BalTec Corporation (Formerly Bracker Corporation), hereafter known as "Seller" may be required to pay to any national, state or local government upon sale, production or transportation and Buyer shall reimburse Seller for any such taxes, excises or other charges which Seller may be required to pay.

INSTALLATION, SET-UP & TRAINING:

The above mentioned prices do not include assistance of Seller's service personnel during set-up and checking out of equipment and training of operators and machine maintenance crews at Buyer's plant. If this service is required, it will be billed at Seller's prevailing rates for such services, including living and traveling expenses. Buyer shall be responsible for the initial uncrating, cleaning, proper positioning and completion of necessary connections such as air, water and electric power.

TECHNICAL DOCUMENTS:

All technical documents relating to the contract which these terms and conditions apply, including without limitation, drawings, descriptions, and illustrations, shall be considered as approximate and shall be subject to modification from time to time by Seller. All such technical documents, whether delivered before, during or after conclusion of such contract, shall remain the exclusive intellectual property of Seller. Buyer shall not reprint, copy or duplicate any of such technical documents or circulate or distribute them to any third party without the express prior written consent of Seller.

DELIVERY AND LIABILITY:

The delivery specified is the date of shipment from Seller's plant. Delivery of tooling shall be contingent of Seller's receiving, together with the order, complete and detailed prints released for production with all necessary information. No liability to Seller shall result

from delay in performance or non-performance of these terms and conditions directly or indirectly caused by fire, explosion, accident, flood, labor trouble or shortage, war, act of any government, inability to obtain suitable material, equipment, fuel power or transportation, or act of God or delay arising from contingencies, happenings or causes beyond the control of Seller. Quantities so affected by any such circumstances may be eliminated without liability, but these terms and conditions shall otherwise remain unaffected.

MACHINERY:

Warranty—If within the earlier of (i) a period of 2,080 hours of actual operation or (ii) 12 months from start up, but not exceeding 13 months from the date of shipment, any part of machinery is found to be defective in material or workmanship. Seller's sole responsibility shall be to replace or repair such part at Seller's option as determined after inspection, provided the machine has been given normal and proper usage, maintenance and care and is still the property of the original purchaser. In no event shall this warranty be deemed to cover or obligate Seller in any way regarding items or components not actually manufactured by Seller or if such machinery is sold by Buyer during the warranty period.

THIS WARRANTY IS LIMITED TO THE EXPRESS TERMS CONTAINED IN THIS INSTRUMENT AND IS IN LIEU OF ALL OTHER WARRANTIES, GUARANTEES, OBLIGATIONS OR LIABILITIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT BY WAY OR LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND SELLER ASSUMES NO OTHER LIABILITY WHATSOEVER, WHETHER FOR DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES, OR IN ANY OTHER WAY.

Service—Should service such as erection, demonstration or repairing of any machine be requested beyond that specifically included in the quoted and/or acknowledged price, such service shall be rendered at Seller's prevailing rates, plus reasonable charges for transportation and living expense incurred by Seller.

Performance-The machine's ultimate performance level is based on proper machine maintenance, the quality of the production parts, operator dexterity, maintenance of the fixturing, etc. Perishable tooling (typically forming tools) are not considered a factor. Seller CANNOT be held responsible for any negative effects due to part burrs, flashing, warping, excessive oils, etc.

TOOLING:

Tooling quoted and/or acknowledged will be sold outright to Buyer and become Buyer's property. Any engineering changes implemented after an order has been placed and tooling starting will be charged on a time basis at Seller's prevailing rates.

PATENTS:

It is not the intention of Seller to manufacture any product which is an infringement of a patented article. Buyer agrees to defend and save harmless Seller from and against any and all expenses involved in any claims for damages made by third parties for infringements of patents by the use or sale of parts made by Seller in accordance with Buyer's specifications. Buyer does not assume responsibility for parts made on equipment violating licenses.

CANCELLATION:

Any order placed with and accepted by Seller may only be cancelled with Seller's written consent and then only upon payment by Buyer of all of Seller's expenses incurred prior to the cancellation date.

TRANSPORTATION AND RISK OF LOSS:

In the absence of shipping instruction, Seller shall use its own discretion in choice of method and carrier. Seller shall assume no responsibility for insuring shipments unless specifically requested by Buyer and then only at Buyer's expense and valuation. Claims for damages or loss must be filed by Buyer with the carrier promptly. Seller shall assume no responsibility for such damages or loss. All risk of loss shall pass to Buyer on-board Buyer's carrier at Seller's factory.

ASSIGNABILITY:

This order and/or acknowledgment shall not be assignable or transferable by Buyer, in whole or in part, except with the written consent of Seller.

ARBITRATION:

Any controversy arising out of these terms and conditions shall be determined by arbitration before three arbitrators of the American Arbitration Association in Pittsburgh, Pennsylvania pursuant to the rules of such Association then obtaining. Any award rendered in any such arbitration shall be final, binding upon both Seller and Buyer and enforceable in a court of competent jurisdiction.

GOVERNING LAW:

These terms and conditions shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

RETURNED GOODS:

No item may be returned to Seller without its written consent. Since Seller has no control over storage in transit, transportation, security, shipment and delivery of the items covered by this order following removal from Seller's plant, all claims for alleged defects upon arrival at Recipient's location shall be deemed waived unless in writing and furnished to Seller at its Home Office within (10) days following delivery to the Recipient. No claim will be recognized for items covered by this order that have been used, processed, modified, or otherwise altered. Seller reserves the right either to remedy any claimed defect or to substitute for the alleged defective item. Merchandise ordered hereunder that is allegedly defective upon arrival at Recipient's location if returned with Seller's consent shall be returned F.O.B. Seller's Plant. No claims shall be honored unless invoices then outstanding shall have been paid in full by Recipient.

MODIFICATION:

This instrument contains all the terms and conditions with respect to the sale and purchase of the equipment, parts or other material specified herein, and shall supersede any terms and conditions contained in Buyer's order form. No modification of these terms and conditions shall be of any force unless such modifications are submitted in writing and signed by both Seller and Buyer.

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