

CROSSTOWN POWER GMBH

TERMS AND CONDITIONS OF SALE

The sales terms and conditions stated below shall form a part of any contract, agreement, purchase order resulting from any part of the products, work or other services covered by these General Terms and Conditions (GTC), unless expressly excepted on the face of this contract. Crosstown Power GmbH is SELLER. Counter party to SELLER is designated BUYER.

1. The Contract (Sales Offer and Subsequent Purchase Order) constitutes the entire agreement between SELLER and BUYER with respect to the performance of the Scope of Supply and supersedes all previous negotiations, representations and/or agreements between the Parties, both written and oral. The Contract shall become a binding Agreement at the Effective Date of the Contract and/or Purchase Order. In particular, all standard or other sales terms submitted by BUYER in any of BUYER's documents, communications or acknowledgements, whether prior to or after the Effective Date, are hereby excluded unless expressly incorporated in the Contract or otherwise agreed in writing by both Parties.
2. QUOTATIONS: All quotations from SELLER shall be in writing and expire automatically sixty (60) days from the date issued unless otherwise specified. Oral quotations will not be deemed binding.
3. TAXES: The BUYER shall be responsible for and shall pay any additional charges which may be necessary to cover any tax or charge (other than income taxes) now existing or hereafter imposed by the International, Federal, State or Municipal authorities upon products or services herein described.
4. TOOLING: If a tooling charge is specified on the face of this quotation, title and possession to all tools shall remain with SELLER, but the tools shall be reserved solely for use on orders of the BUYER. Unless otherwise specified, eight (8) weeks lead-time is required on the initial order for the fabrication of special tools.
5. ERRORS IN PRICE: SELLER reserves the right to correct all typographical or clerical errors, which may be present in this quotation.
6. PAYMENTS: Terms of payment for products, work or other services shall be made on the basis of Net Cash Five (5) Days from the date of the invoice. Each shipment shall be a separate transaction and payment shall be made accordingly. If shipments are delayed by the BUYER, payments shall become due from date when SELLER is prepared to make shipment. Products held for the BUYER shall be at risk and expense of the BUYER.
7. SHIPMENTS AND DELIVERY: Unless otherwise specified in this quotation all shipments will be made F.O.B at SELLER's plant indicated on the face of this quotation. Unless the BUYER otherwise requests, SELLER will select the means of transportation and routing. Upon delivery into the possession of the carrier, risk of loss or damage shall pass to the BUYER. Shipping dates are considered approximate and are based on prompt receipt by SELLER at its premises all documents, material and parts to be furnished by the BUYER.
8. WARRANTY: SELLER warrants, except as hereinafter provided, that all products made by it, services provided by it, and all parts repaired by it shall at the time of shipment from its plant, be in conformance with written specifications agreed between SELLER and the BUYER regarding material and workmanship. By this warranty SELLER shall replace free of charge SELLER manufactured products, correct repaired components or re-issue services originated by SELLER which upon examination by SELLER indicates are not in conformance with agreed written specifications regarding materials and workmanship. Returned goods (transportation charges prepaid) will not be accepted without prior authorisation by an authorised representative of SELLER. BUYER must notify SELLER of any claimed defect in writing within the periods set forth below: (A) Newly Manufactured Parts- within thirty (30) days upon despatch of parts to the BUYER. (B) Repaired parts- within 12 months of readiness for shipment from the SELLER facility performing the service. (C) Services - within fifteen (15) days upon despatch of documents. SELLER reserves the right to "Make Good" any errors prior to considering any cash refund.
9. END USE: Determination of the suitability of the products or service sold hereunder for the sole responsibility of the BUYER and SELLER shall in no way be responsible for the suitability of the products or services for any particular end use.
10. DAMAGES: In no event shall SELLER be liable for consequential damages, liquidated damages or loss of revenue.
11. LIMITATION OF LIABILITY: The warranty printed in section 7 is in lieu of all other expressed or implied warranties and the remedies at law or in equity. SELLER and the BUYER agree that damages are extremely difficult to determine and that the express remedies herein are sufficient and reasonable. THE EXPRESS WARRANTY SET FORTH HEREIN EXCLUDES ALL IMPLIED WARRANTIES INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. SELLER shall not be liable for prospective profits nor special, indirect or consequential damages, nor shall recovery of any kind against SELLER be greater in amount than 10% of the purchase price for the product sold or the purchase price charged for the manufacture of the specific part or parts manufactured involved in the breach of warranty set forth in section 7.
12. INTERPRETATION OF CONTRACT AND ASSIGNMENTS: This contract shall be construed according to the laws of SWITZERLAND. This contract may not be assigned by either party without the written consent of the other party.
13. EXCUSABLE DELAYS: SELLER shall not be liable for delays in delivery or warranty obligations arising out of causes beyond the control and without fault or negligence of SELLER. Such causes include but are not restricted to fires, strikes, floods, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, acts of God, acts of customer, public enemy or the Government, war, terrorism, shortages of materials, or failure of suppliers to satisfactorily meet scheduled deliveries, and accidents or any other factors or events beyond the reasonable control of SELLER.
14. MISCELLANEOUS: All drawings, techniques or improvements (whether patentable or un-patentable) made or conceived by SELLER or its employees in the fulfilment of any order arising from this quotation shall be the sole property of SELLER.
15. ENTIRE AGREEMENT: This quotation constitutes the entire agreement between the BUYER and SELLER. And no representation or statement not contained in this quotation shall be binding upon SELLER as a warranty or otherwise. The foregoing special provisions shall prevail notwithstanding any order submitted by the BUYER arising from this quotation. Section titles are for convince only and shall not be constructed as a part of these terms and conditions.