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**1. Quotations:** Written quotations are submitted for acceptance from the date of issuance, until the period of time as specified in the quotation. Verbal quotations are invalid unless confirmed in writing. Seller's recommendations will be prepared on the basis of technical data available on Buyer's application at time of inquiry. Seller assumes no responsibility or liability when insufficient or incorrect data has been supplied at time of inquiry. Under certain conditions, Seller reserves right to request a down payment or progress payments. All quoted prices are F.O.B. shipping point unless otherwise specified in Seller's quotation.

**2. Terms and Conditions of Sale:** All descriptions, quotations, proposals, offers, acknowledgments, acceptances and sales of Seller's products are subject to and shall be governed exclusively by the terms and conditions stated herein. Buyer's acceptance of any offer to sell is limited to these terms and conditions. In the event that contrary language is contained in Buyer's purchase order, confirming order, or terms and conditions of sales, each purchase, and sale transaction shall be governed exclusively by this Offer of Sale. No such additional, different or inconsistent terms and conditions shall become part of the contract between Buyer and Seller unless expressly accepted in writing by Seller. Each purchase order shall not become binding upon Seller until it has been accepted by Seller at its headquarters located in Malvern, PA. ("Malvern Headquarters"). Seller's acceptance of any offer to purchase by Buyer is expressly conditional upon Buyer's assent to all the terms and conditions stated herein, including any terms in addition to, or inconsistent with those contained in Buyer's offer. All orders must show complete description of equipment, quantity, price, and shipping date(s) required by Buyer. Acceptance of Seller's products shall in all events constitute such assent.

**3. Payment:** Payment shall be made by Buyer net 30 days from the date of delivery of the items purchased hereunder. Amounts not timely paid shall bear interest at the maximum rate permitted by law for each month or portion thereof that Buyer is late in making payment. Any claims by Buyer for omissions or shortages in a shipment shall be waived unless Seller receives notice thereof within 30 days after Buyer's receipt of the shipment. Seller reserves the right to make partial shipments and render invoices accordingly.

**4. Delivery:** Unless otherwise provided on the face hereof, delivery shall be made F.O.B. Seller's plant. Regardless of the method of delivery, however, risk of loss shall pass to Buyer upon Seller's delivery to a carrier. Any delivery dates shown are approximate only and Seller shall have no liability for any delays in delivery. Unless Buyer issues specific shipping instructions,

Seller will choose the method of shipment. Claims for damages in shipment are to be made by Buyer direct to the carrier. Unauthorized return shipments, prepaid or collect, will be rejected at Seller's receiving facilities.

**5. Warranty:** Seller warrants that the items sold hereunder shall be free from defects in material or workmanship for a period of 12 months from date of shipment from AIRMATIC THIS WARRANTY COMPRISES THE SOLE AND ENTIRE WARRANTY PERTAINING TO ITEMS PROVIDED HEREUNDER. SELLER MAKES NO OTHER WARRANTY GUARANTEE, OR REPRESENTATION OF ANY KIND WHATSOEVER. ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER EXPRESS, IMPLIED, OR ARISING BY OPERATION OF LAW, TRADE USAGE, OR COURSE OF DEALING ARE HEREBY DISCLAIMED. NOTWITHSTANDING THE FOREGOING, THERE ARE NO WARRANTIES WHATSOEVER ON ITEMS BUILT OR ACQUIRED WHOLLY OR PARTIALLY TO BUYER'S DESIGN OR SPECIFICATIONS.

**6. Limitation of Remedy:** SELLER'S LIABILITY ARISING FROM OR IN ANY WAY CONNECTED WITH THE ITEMS SOLD OR THIS AGREEMENT SHALL BE LIMITED EXCLUSIVELY TO REPAIR OR REPLACEMENT OF THE ITEMS SOLD OR REFUND OF THE PURCHASE PRICE PAID BY BUYER, AT SELLER'S SOLE OPTION. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS ARISING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ITEMS SOLD HEREUNDER, WHETHER ALLEGED TO ARISE FROM BREACH OF CONTRACT, EXPRESS OR IMPLIED WARRANTY OR IN TORT, INCLUDING WITHOUT LIMITATION, NEGLIGENCE, FAILURE TO WARN OR STRICT LIABILITY.

**7. Changes, Reschedules and Cancellations:** Buyer may request to modify the designs or specifications for the items sold hereunder as well as the quantities and delivery dates thereof, or may request to cancel all or part of this order, however, no such requested modification or cancellation shall become part of the contract between Buyer and Seller unless accepted in writing by Seller at its Malvern Headquarters. Acceptance of any such requested modification or cancellation shall be at Seller's discretion, and shall be upon such terms and conditions as Seller may require. **Buyer shall pay to Seller the reasonable costs and expenses for any equipment manufactured, work in progress, engineering, and cancellation charges which may be incurred by Seller from its suppliers and subcontractors, plus Seller's usual rate of profit for similar work.** Equipment on which manufacture or delivery is delayed by request of Buyer may be placed in storage by Seller either in Seller's plant or elsewhere as may actually be agreed upon. All costs and risks for such storage will be for Buyer's account.

**8. Returns:** Return of equipment or parts for credit will be permitted only after a return goods authorization number ("RGA Number"), and shipping instructions have been obtained from Seller. All costs of handling and all transportation charges are Buyer's responsibility.

**9. Special Tooling:** A tooling charge may be imposed for any special tooling, including without limitations, dies, fixtures, molds and patterns, acquired to manufacture items sold pursuant to this agreement. Such special tooling shall be and remain Seller's property notwithstanding payment of any charges by Buyer. In no event will Buyer acquire any interest in apparatus belonging to Seller which is utilized in the manufacture of the items sold hereunder, even if such apparatus has been specially converted or adapted for such manufacture and notwithstanding any charges paid by Buyer. Unless otherwise agreed, Seller shall have the right to alter, discard or otherwise dispose of any special tooling or other property in its sole discretion at any time.

**10. Approval Drawings:** Certified installation drawings of the equipment purchased will be issued to Buyer on request. Purchase of materials and construction of the equipment will proceed as soon as possible after the issuance of these certified drawings. In the event Buyer requests drawings "for approval", materials will not be purchased nor construction of the equipment begun until Buyer returns the "for approval" drawings marked "approved for construction". Should Buyer return the drawings "for approval" marked "approved-except as noted" Seller will proceed with the purchase of materials and construction of the equipment as soon as the revised drawings are completed. Increased costs due to design changes, or construction material will be Buyer's responsibility.

**11. Buyer's Property:** Any designs, tools, patterns, materials, drawings, confidential information or equipment furnished by Buyer, or any other items which become Buyer's property, may be considered obsolete and may be destroyed by Seller after two (2) consecutive years have elapsed without Buyer placing an order for the items which are manufactured using such property. Seller shall not be responsible for any loss or damage to such property while it is in Seller's possession or control.

**12. Taxes:** Unless otherwise indicated on the face hereof, all prices and charges are exclusive of excise, sales, use, property, occupational or like taxes which may be imposed by any taxing authority upon the manufacture, sale or delivery of the items sold hereunder. If any such taxes must be paid by Seller or if Seller is liable for the collection of such tax, the amount thereof shall be in addition to the amounts for the items sold. Buyer agrees to pay all such taxes or to reimburse Seller therefore upon receipt of its invoice. If Buyer claims exemption from any sales, use or other tax imposed by any taxing authority, Buyer shall save Seller harmless from and against any such tax, together with any interest or penalties thereon which may be assessed if the items are held to be taxable.

**13. Indemnity For Infringement of Intellectual Property Rights:** Seller shall have no liability for infringement of any patents, trademarks, copyrights, trade dress, trade secrets or similar rights except as provided in this Part 13. Seller will defend and indemnify Buyer against allegations of infringement of U.S. patents, U.S. trademarks, copyrights, trade dress and trade secrets (hereinafter "Intellectual Property Rights").

Seller will defend at its expense and will pay the cost of any settlement or damages awarded in an action brought against Buyer based on an allegation that an item sold pursuant to this contract infringes the Intellectual Property Rights of a third party. Seller's obligation to defend and indemnify Buyer is contingent on Buyer notifying Seller within ten (10) days after Buyer becomes aware of such allegations of infringement, and Seller having sole control over the defense of any allegations or actions including all negotiations for settlement or compromise. If an item sold hereunder is subject to a claim that it infringes the Intellectual Property Rights of a third party, Seller may, at its sole expense and option, procure for Buyer the right to continue using said item, replace or modify said item so as to make it noninfringing, or offer to accept return of said item and return the purchase price less a reasonable allowance for depreciation. Notwithstanding the foregoing, Seller shall have no liability for claims of infringement based on information provided by Buyer, or directed to items delivered hereunder for which the designs are specified in whole or part by Buyer, or infringements resulting from the modification, combination or use in a system of any item sold hereunder. The foregoing provisions of this Part 13 shall constitute Seller's sole and exclusive liability and Buyer's sole and exclusive remedy for infringement of Intellectual Property Rights.

If a claim is based on information provided by Buyer or if the design for an item delivered hereunder is specified in whole or in part by Buyer, Buyer shall defend, indemnify and hold harmless Seller for all costs, expenses, settlements or judgments resulting from any claim that such item infringes any patent, trademark, copyright, trade dress, trade secret or any similar right.

**14. Force Majeure:** Seller does not assume the risk of and shall not be liable for delay or failure to perform any of Seller's obligations by reason of circumstances beyond the reasonable control of Seller (hereinafter "Events of Force Majeure"). Events of Force Majeure shall include without limitation, accidents, acts of God, strikes or labor disputes, acts, laws, rules or regulations of any government or government agency, fires, floods, delays or failures in delivery of carriers or suppliers, shortages of materials and any other cause beyond Seller's control.

**15. Entire Agreement/Governing Law:** The terms and conditions set forth herein, together with any amendments, modifications and any different terms or conditions expressly accepted by Seller in writing, shall constitute the entire Agreement concerning the items sold, and there are no oral or other representations or agreements which pertain thereto. This Agreement shall be governed in all respects by the law of the State of Pennsylvania. No actions arising out of sale of the items sold hereunder or this Agreement may be brought by either party more than two (2) years after the cause of action accrues.