



ELECTROMATE

STANDARD PURCHASE ORDER TERMS & CONDITIONS

1. AGREEMENT & ACCEPTANCE

The Seller agrees that the following Terms and Conditions are incorporated into and govern all purchase orders between the Seller (as identified on the purchase order) and the Buyer, Electromate Industrial Sales Limited. The Seller agrees to be bound by and to comply with all such conditions. Other terms and conditions are not binding to Electromate Industrial Sales Limited unless accepted in writing.

Acceptance of the Purchase Order may be evidenced by the Seller's written notice of acceptance or by the Seller's commencement of performance.

2. PURCHASE PRICE

All payments are made in the currency shown on the Purchase Order or as otherwise specified.

3. PACKING

All items shall be prepared and packaged for shipment in a manner that will prevent damage in transit. All packages, packing lists and bill of lading must be marked with the Purchase Order number. The Buyer is not liable for extra charges for packing, cartage, or anything else unless stated on the purchase order.

4. DELIVERY

All products and services must be delivered as specified in the Purchase Order. In the absence of specific shipping instructions, shipments shall be routed via the most economical mode of commercially reasonable transportation available. Time is of the essence with respect to delivery of products or services listed in the Purchase Order. The Seller must immediately advise the Buyer if any product or service cannot be delivered as ordered by the stated date. The Buyer shall be liable only for the shipping charges identified on the face of the Purchase Order. If the Seller elects a more expensive shipping method to meet a required delivery date, the Seller will be responsible for any increased shipping expense.

- Partial Shipment – at the Buyer's option, in the event of shipment or receipt of less than all products or services ordered, Seller may either elect to accept shipment and pay only for the products or services received or reject the entire shipment.
- Late Shipment – the Buyer reserves the right to cancel the Purchase Order or any portion thereof if delivery is not made when and as specified and charge the Seller for any loss sustained as a result of such cancellation, including, but not limited to shipping charges. Further, the Buyer may reject the late delivery without cancellation of the Purchase Order as to other subsequent required deliveries. Each shipment required under the Purchase Order is considered separately and the Buyer's right to reject a late delivery shall not be affected by acceptance of other late deliveries by the Seller. All such cancelled shipments shall be returned to the Seller at the Seller's expense.
- Early Shipment – Products delivered prior to the date specified, at the Buyer's option, may be subject to anticipation and warehouse charges, payable by the Seller or may be returned to the Seller, at the Seller's expense, to be held until proper shipping date.

5. INSPECTION AND TESTING

All products and services shall be subject to inspection and approval by the Buyer after delivery. The Buyer reserves the right to reject any products or services that it deems nonconforming, defective, stale, unsafe, unfit, in excess of the Purchase Order quantities or in any other way unsuitable for its purposes. The Buyer reserves the right to require replacement of rejected products or services as well as payment of damages, at Seller's expense. The Seller, at the Buyer's option, will either (i) promptly repair or replace the defective goods or services at the Seller's cost, or (ii) issue a full refund (including shipping and any other expenses incurred by the Buyer). If the Seller does not replace rejected goods or services within a reasonable time, the Buyer may purchase substitute goods or services elsewhere. If the cost of purchasing such substitute goods or service exceeds the price stated, in the order, then the Seller shall pay the difference to the Buyer. This payment shall not prejudice any other rights the Buyer may have against the Seller.

6. TITLE AND RISK

The Seller is to reference the Buyer's purchase order for change of title and assumptions of risk are defined by INCO2000 terms.

7. CHANGES

The Buyer reserves the right at any time prior to shipment to make changes as to: (i) specifications; (ii) methods of shipment or packaging; (iii) place of delivery; (iv) schedule of delivery; or (v) the quantities ordered. If any such changes cause an increase or decrease in the cost of or the time required for performance of a Purchase Order, an equitable adjustment may, at the Buyer's sole discretion, be made in the contract price and/or the delivery schedule. Any claim by the Seller for adjustment under this clause shall be deemed waived unless asserted in writing within (10) days from receipt by Seller of the change. If the cost of property made obsolete or excess as a result of such change is paid for by the Buyer, the Buyer shall prescribe the manner of disposition of such property. No change by the Seller is allowed without written approval of the Buyer.

8. CANCELLATION

The Buyer may, after giving written notice to the Seller, cancel the Purchase Order prior to delivery. Upon a default by the Seller of any of its obligations hereunder, the Buyer may, in addition to any other rights or remedies it may have, cancel the Purchase Order and seek damages from the Seller. If the Seller becomes insolvent, a petition is filed for reorganization of the Seller or for its adjudication as a bankrupt, the Seller makes an assignment for the benefits of its credits, or a receiver or trustee is appointed for any of the Seller's assets or any other type of insolvency proceeding or formal or informal proceeding for dissolution, liquidation or winding down of the affairs of the Seller is commenced, the Buyer may cancel the purchase order and seek damages from the Seller in accordance with law. In the event of any cancellation hereunder, the Seller shall cease any work or delivery and observe any instruction from the Buyer as to work in progress.

9. INDEMNIFICATION

The Seller shall indemnify, defend and hold harmless the Buyer, all of its affiliates, subsidiaries and parents, and their respective agents, officers, directors, manager and employees from and against any and all claims, damages (including, with limitation, court costs, investigative costs and reasonable attorneys' fees), judgments, liabilities, fines, costs and expenses (included without limitation, legal expenses) as a result of (i) any claim or action arising out of any actual or alleged death or injury to any person, or any damage or destruction of property attributable to the Sellers's products or services; or (ii) any willful misconduct or negligence of the Seller or any authorized Seller representative. Such indemnification obligations shall survive the cancellation or expiration of the Purchase Order.

10. INSURANCE

If insurance requirements are not specified in the Purchase Order, the Seller represents that as of the date of the Purchase Order, the Seller maintains comprehensive general liability insurance in an amount not less than \$1,000,000 combined single limit, worker's compensation insurance as required by law and automobile liability insurance for all vehicles to be used by the Seller in the performance of services or delivery of products under the Purchase Order. Upon request, the Seller shall provide proof of such insurance coverage.

11. PREMISES

The Seller must comply with all reasonable regulations and policies communicated by the Buyer to the Seller concerning the Seller's conduct on the Buyer's premises.

12. CONFIDENTIALITY

The Seller acknowledges that it is, may be or will be privy to Confidential Information (as defined below). The Seller agrees it will use the Confidential Information only in furtherance of its work under this Purchase Order and shall not transfer or otherwise disclose the Confidential Information to any third party except as provide herein. The Seller shall: (i) give access to such Confidential Information solely to those of its employees with a need to have access thereto in furtherance of or in connection with this agreement or as required by applicable law; and (ii) take the same security precautions to protect against disclosure or unauthorized use of such Confidential Information that the Seller takes with its own confidential information but, in no event, shall the Seller apply less than a reasonable standard of care to prevent such disclosure or unauthorized use. As used herein, "Confidential Information" means any and all information relating to the Buyer, and any of its respective affiliates that may be received by or be provided to the Seller from time to time, including, without limitation, equipment and business specifications, business records or data, trade secrets, and confidential planning or policy matters, business strategies, internal policies and procedures, matters subject to attorney client privilege and any financial or accounting information, the existence of this or any other agreements or communications between the Seller and the Buyer, and the terms of any such agreement, and all data, reports, interpretations, forecasts and records containing or otherwise reflecting information concerning any such person or entity, together with analysis, compilations, studies or other documents, whether prepared by the Seller or the Buyer which contain or otherwise reflect such information.

13. PUBLICATIONS

The Seller shall not use the Buyer's name, or the names of its respective subsidiaries or affiliates, in any sales or marketing publication or advertisement, without the prior written consent of the Buyer.

14. WARRANTY

The Seller represents and warrants, for a period of eighteen (18) months from date of shipment that:

- (a) The Seller owns all rights, title and interest in the products and services and has the legal authority to sell, license or otherwise transfer the right to use or sell such items to the Buyer.
- (b) There has been no violation of trade mark, patent, copyright, or any other intellectual property right in manufacture, production or sale of the goods, materials, or services provided.
- (c) The products and services covered under the Purchase Order are of good and merchantable quality and free from defects in design, material, and workmanship, are safe and conform to applicable specifications, drawings, samples, descriptions and associated documentation provided to the Buyer in writing.
- (d) The products and services, and the production and sale thereof, and all warranties, guarantees, representations by the Seller made or authorized to be made in connection therewith are in all respects in compliance with all applicable international (including applicable import and export regulations) federal, provincial or state, local laws, rules and regulations.
- (e) The goods are fit for the use intended.
- (f) Unless otherwise specified in this Purchase Order, the goods are new and not used or reconditioned.
- (g) The Seller will comply with federal, provincial or state and local laws, ordinances, rules and regulations applicable to its performance under this Purchase Order. The Seller agrees to indemnify and hold the Buyer and its affiliates, subsidiaries, employees, officers and directors harmless from and against any and all claims, damages, demands, costs and losses, be them incidental or consequential, direct or indirect which the Buyer may suffer in the event the Seller breaches any of its obligations, representations and/or warranties under this Purchase Order and these Terms and Conditions.

15. ASSIGNMENT

The Seller shall not assign rights or delegate duties under the Purchase Order or these Terms and Conditions, or subcontract any part of the performance required under the Purchase Order, without the express written consent of the Buyer. No such consent shall be deemed to relieve the Seller of its obligations to comply fully with the requirements of the Purchase Order. Subject to the foregoing, the Purchase Order and these Terms and Conditions shall insure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

16. FORCE MAJEURE

The Seller shall not be liable for default or delay due to causes beyond the Seller's reasonable control and without fault or negligence on the part of the Seller. The Seller shall give the Buyer prompt notice in writing when any such cause appears likely to delay deliveries and/or performances of services and will take appropriate action to avoid or minimize such delay. If any such default or delay threatens to impair the Seller's ability to meet delivery requirements for its material, supplier and services, the Buyer shall have the right, without any liability to the Seller, to cancel the portion or portions of the Purchase Order so affected. The Buyer shall not be liable for default or delay in the performance of its obligations due to cause beyond its reasonable control.

17. GOVERNING LAW

The Laws of the Province of Ontario under jurisdiction of the Province of Ontario govern this agreement, excepting the International Sale of Goods Act which is specifically excluded.

18. TERMINATION OF CONTRACT

The Buyer reserves the right in its sole discretion to terminate this contract, in whole or part, at any time, without penalty, expense or further liability of any kind:

- (a) at any time, upon notice to the Seller, for a major breach of the terms of the Purchase Order by the Seller;
- (b) at any time, upon notice to the Seller, following the failure of the Seller to satisfactorily remedy, repair or replace any defect or deficiency in the Seller's performance of the contract, after having been given notice to do so by the Buyer;
- (c) at any time if the Seller makes an assignment for the benefit of its credits, a proposal of compromise with its credits, a declaration of its voluntary or involuntary bankruptcy or insolvency, a placing of its assets in the custody of a liquidator or trustee in bankruptcy, or a cessation or winding up of its business, in whole or in part;
- (d) as otherwise stated under these terms and conditions. The Buyer's rights of termination shall be in addition to any other rights or remedies it may have in law, in equity or under this contract.

19. ENTIRE AGREEMENT

The Purchase Order and these Terms and Conditions constitute the entire agreement and understanding between the parties with respect to the subject matter contained in the Purchase Order and these Terms and Conditions and the Buyer shall not be bound by any other terms, including, without limitations, any terms that may be contained in any acknowledgement, contract, proposals, invoice form, the Seller's Website or correspondence, or other act of the Seller and notwithstanding the Buyer's purchasing department's act of accepting or paying for any shipment or similar act of the purchasing department.

20. MATERIAL SAFETY DATA SHEETS

As required by Federal, Provincial/State regulations, the Seller agrees that all goods delivered hereunder, which have a Material Safety Data Sheet, will be accompanied by a copy of the applicable Material Safety Data Sheet at the time of delivery.