

TechniQuip Terms and Conditions of Sale

Any offer made by Techniquip Corporation, with offices at 530 Boulder Court, Pleasanton, California, 94566 ("Techniquip") to sell goods is subject to these terms and conditions, and, unless otherwise expressly agreed by Techniquip in writing, any different or additional terms and conditions proposed by the purchaser are hereby objected to and rejected and shall be of no effect.

Prices

Prices do not include, and the purchaser shall pay (or reimburse Techniquip for), any and all excise, sales, use, personal property, inventory or similar taxes, duties or tariffs, charges or levies imposed on or in connection with the sale or use of goods sold by Techniquip to the purchaser or held by Techniquip for the purchaser pending shipment.

FOB

Unless otherwise specified, prices are FOB point of shipment designated by the Techniquip.

Quotations

Price quotations are subject to change without notice.

Payment

Unless otherwise specified by Company, payment terms are net thirty (30) days from the date of invoice. Interest at a rate equal to the lower of 1-1/2% per month or the maximum rate permitted by law shall accrue on the outstanding balance of all payments not made when due, and any such interest shall be payable on demand.

Order Cancellations

Orders accepted by Techniquip may be cancelled at any time however purchaser agrees to pay to Techniquip an amount equal to Techniquip's direct losses (excluding lost profit, if any) associated with actual costs incurred in connection with such change or cancellation.

Delivery and Risk of Loss

All delivery dates are approximate and Techniquip shall have no liability to purchaser for late deliveries.

Delivery of goods to the purchaser shall be FOB point of shipment designated by Techniquip and shall be effected upon delivery to a common carrier for shipment from such location. Upon such delivery, title to and all risk of loss of or damage to the goods shall pass from Seller to the purchaser. Seller shall have no liability or responsibility in connection with claims for loss of or damage to goods which is incurred after delivery to the carrier, and the purchaser shall pursue all such claims directly with the carrier.

Returns

Techniquip may, but is not obligated to, accept returns of goods. Any such returns (other than returns requested by Techniquip in connection with warranty claims) will be limited to current goods in original cartons and in standard package quantities. Any credit issued by Techniquip will be for the original net purchase price of the goods less any return transportation charge paid by Techniquip and less any costs associated with returning the item(s) to their original condition (if practical).

Return shipments must be prepaid, insured, and shipped at the purchaser's expense.

Force Majeure

Techniquip shall have no liability to the purchaser for any delay or failure in carrying out its obligations to the purchaser for reasons beyond the Techniquip's control, including without limitation, acts of God, war, natural disasters, labor disputes, changes in or compliance with laws, regulations or governmental policies and shortages of supplies and services. Techniquip may extend delivery until any such cause of delay has been removed, or at its option, cancel the undelivered portion of any order so affected without liability to the purchaser except for the return of any payment made by the purchaser to Techniquip with respect to any undelivered portion of the order so canceled.

Warranty and Limitation of Liability

Techniquip warrants to the original purchaser that goods sold by the Techniquip to the original purchaser will be free from manufacturing defects in materials and workmanship at the time the first end user purchaser initially installs such goods in an electrical circuit, optical system or photonic device having the correct characteristics for proper use of such goods, but not to exceed one year from the date of sale to the original purchaser. This warranty does not apply to goods which have been subject to abuse, misuse, neglect, improper installation or alteration (other than by Techniquip or its authorized representatives) after delivery to the carrier for shipment to the purchaser.

EXCEPT AS EXPRESSLY SET FORTH IN A WRITING DELIVERED BY TECHNIQUIP TO THE PURCHASER, TECHNIQUIP MAKES NO WARRANTIES TO THE PURCHASER, WRITTEN OR ORAL, EXPRESS, IMPLIED OR STATUTORY, IN ANY MANNER OR FORM WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

Other than specific warranty durations stated in individual product specifications, Techniquip makes no warranty as to the useful life of the goods.

At Techniquip's request, the purchaser shall return goods to Techniquip at its Pleasanton, California offices for verification of the warranty as set forth in this Agreement.

In the event Techniquip determines that the warranty is applicable to any goods, Techniquip shall elect, at Techniquip's sole option, to provide as the purchaser's sole remedy either:

1. Replace with identical, improved or upgraded product of same function, or
2. Repair product to specification functionality, or
3. Issue to the original purchaser a credit for an amount not to exceed the original purchase price paid by the original purchaser to Techniquip for the affected goods.

Techniquip shall have no liability with respect to warranty claims made by the purchaser more than one year after Techniquip's sale of the goods involved to the purchaser. In no event shall Techniquip be liable to the purchaser for any special, incidental or consequential damages.

Infringement

The purchaser shall indemnify and hold Techniquip harmless from any claims that goods sold by Techniquip to purchaser in accordance with specifications furnished by purchaser which infringe on the patent or other proprietary rights of third parties. Techniquip shall indemnify and hold the purchaser

harmless from any claims that goods in accordance with Techniquip specifications and sold by Techniquip to the purchaser infringe on the patent or other proprietary rights of third parties, except that Techniquip shall have no liability under this provision unless the purchaser gives to the Techniquip prompt written notice of any such claim, full authority to settle, compromise or defend any such claim, and full cooperation in connection therewith. In the event the purchaser notifies the Techniquip of any such infringement claims, Techniquip may at its sole option:

1. Defend or settle such claims,
2. Procure for the purchaser the right to use the goods,
3. Substitute non-infringing goods,
4. Accept the return of the product and refund the original purchase price less appropriate deductions in the event the goods are not returned in the condition in which sold.

Designs and Trade Secrets

Any drawings, data, designs, or other technical information supplied by Techniquip to the purchaser in connection with the sale of any goods shall remain Techniquip's property and shall be held in confidence by the purchaser, and the same shall not be reproduced or disclosed to others without Techniquip's prior written consent.

Assignment

The original purchaser's rights, duties and claims under these terms and conditions may not be assigned, transferred or delegated without prior written consent of Techniquip in each instance.

Governing Law

These terms and conditions and any contract of sales between Techniquip and the purchaser shall be governed by the laws of the State of California.