

## Standard Terms And Conditions Of Sale

### 1.0 GENERAL

- 1.1 Cryomagnetics, Inc. is hereinafter referred to as the "CORPORATION" and the company, agency, or individual to whom any proposal is made and/or from whom any purchase order is received is hereinafter referred to as the "CUSTOMER".
- 1.2 All quotations are subject to final written acceptance by CORPORATION in Oak Ridge, Tennessee of CUSTOMER's purchase order, including any exceptions thereto, before any responsibility of performance shall exist on the part of the CORPORATION. All purchase orders received by the CORPORATION not in response to a quotation are subject to written acceptance by CORPORATION. All changes from the written quotation of CORPORATION must be approved and accepted in writing by CORPORATION at its address in Oak Ridge, Tennessee. Customer is hereby notified in advance of CORPORATION's objection to any proposed additional or different terms or conditions.
- 1.3 Unless otherwise set forth in the details of a written quotation or proposal, all quotations are valid for a period of thirty (30) days from the date thereof. Any purchase order issued by CUSTOMER with respect to a quotation from CORPORATION shall be subject to written confirmation of acceptance by CORPORATION.

### 2.0 PRICING AND TAXES

- 2.1 All prices are F.O.B. CORPORATION's plant in Oak Ridge, Tennessee unless otherwise specified. Federal, state or other taxes are not included in price quotations.
- 2.2 CORPORATION reserves the right to correct all typographical or clerical errors which may be present in the prices or specifications of a quotation or other written material prepared by the CORPORATION.
- 2.3 CORPORATION reserves the right in accepting any purchase order to adjust CORPORATION's prices at time of invoicing to reflect price increases from CORPORATION's suppliers under the following conditions:
- Time from issuance of CORPORATION's quotation to receipt of CUSTOMER's purchase order exceeds thirty (30) days;
  - Time from acceptance of CUSTOMER's purchase order to shipment, as mutually agreed upon, exceeds ninety (90) days;
  - Customer requests changes related to delivery, materials, performance, or specialized equipment, which require CORPORATION to incur costs in excess of those included in CORPORATION's quotation.

### 3.0 PAYMENT AND TERMS OF PAYMENT

#### Payment and Credit

- Domestic
    - Standard catalog priced items are net thirty (30) days unless otherwise specified.
    - Sales in excess of twenty thousand dollars (\$20,000.00) are subject to a special provision for terms of payment as set forth in CORPORATION's quotation and may include:
      - Payment at time of acceptance of purchase order
      - Progress payment(s)
      - Payment prior to shipment
      - Other terms as defined by CORPORATION.
  - International
    - Preferred payment terms are:
      - Payment at time of acceptance of purchase order in the form of a bank draft or electronic fund transfer.
      - Payment prior to shipment in the form of a bank draft or electronic fund transfer.
      - Credit card
    - The minimum purchase order amount, which may be placed with the CORPORATION is one-hundred fifty dollars (\$150.00).
- 3.2 Failure on the part of the CUSTOMER to make full payment on all sums due CORPORATION as set forth in CORPORATION's quotation and these standard terms and conditions of sale shall constitute a material breach of contract by CUSTOMER.
- 3.3 CORPORATION may, at its sole option, thereafter proceed to exercise any or all of the CORPORATION's remedies for breach of contract. In addition, CORPORATION may charge and collect from CUSTOMER a late charge for any overdue balance due CORPORATION computed at the rate of one-and-one-half percent (1.5%) per month for the period of time said balance or any part thereof is overdue. Said late charge shall be added to any overdue balance.
- 3.4 If shipments are delayed by CUSTOMER, payments shall become due from the date when CORPORATION is prepared to make shipment. If manufacture is delayed by CUSTOMER, payments shall thereupon be made based on the contract price and percentage of completion. Products held by CORPORATION for CUSTOMER shall be at the risk and expense of the CUSTOMER.

### 4.0 CANCELLATION

- 4.1 Any request by CUSTOMER for cancellation in total or in part of any purchase order accepted by CORPORATION shall be subject to the following conditions:
- CORPORATION must receive written notice of Request for Cancellation, stating reasons therefore.
  - CUSTOMER shall be liable for payment of the following charges to CORPORATION in the event of cancellation:
    - All charges incurred (including overhead, G&A and profit) prior to the date that notice of cancellation is received by CORPORATION for all parts peculiar to CUSTOMER's requirement. Upon payment by CUSTOMER of these charges such parts become the property of the CUSTOMER. CORPORATION will store said parts for a reasonable period of time pending receipt of CUSTOMER's instructions for disposition. Such storage is at CUSTOMER's risk and may be subject to storage charges if stored by CORPORATION for longer than thirty (30) days from cancellation date; plus
    - Charges to convert modified standard parts for return to CORPORATION's inventory; plus
    - A restocking charge of a minimum of twenty percent (20%) but not to exceed total sales order value.
    - Custom or special orders are non-cancelable.

### 5.0 SHIPMENT AND DELIVERY

- 5.1 RECEIPT OF DAMAGED GOODS: It is the responsibility of the CUSTOMER to immediately file claims for any damages to contents.
- Inspect the contents of the shipment and check the merchandise carefully.

- If any damage is found, contact the carrier and request to file a damage claim.

A request for an inspection must be made immediately. The delivering carrier will want to know:

- Name and address of shipper (Cryomagnetics, Inc.)
  - Shipper number (if applicable)
  - Tracking or B/L number
  - Contents of shipment
  - Value
  - Nature of damage and, if available, estimated repair cost
- Keep the shipping container or carton, all packing material, and invoice until damage claim is settled. The package and contents will need to be inspected by the carrier.
  - After notifying the carrier, contact the CORPORATION and request a Return Authorization Number (see section 8.0, RETURN POLICY)
  - Failure to contact the carrier and file a claim results in CUSTOMER liability.
- 5.2 Title to all items sold passes to CUSTOMER upon delivery of purchased items to the carrier for shipment per CUSTOMER's instructions. CORPORATION is not responsible for loss or damages after delivery to carrier. Title to items supplied on lease or consignment remains with CORPORATION, and CUSTOMER is responsible for safeguarding same.
- 5.3 CORPORATION shall not be liable for any claims for loss or damages whatsoever resulting from disturbances, transportation difficulties, inability to obtain materials or services, acts of federal, state, or local governments, fires, floods, storms, or acts of God.
- 5.4 CORPORATION's delivery estimates represent the best information available at that time, and CORPORATION will make every effort to meet such dates. Unless there is a specific agreement in writing by CORPORATION, CORPORATION shall not be liable for any claims of damage by CUSTOMER resulting from any delay in shipping dates from those quoted.
- ### 6.0 INSTALLATION
- 6.1 All equipment shall be installed by and at the expense of the CUSTOMER, unless otherwise specified and agreed upon in writing by the CORPORATION.

### 7.0 WARRANTY AND LIMITATIONS OF REMEDIES

- 7.1 CORPORATION warrants that all equipment manufactured by it shall be free from defects in materials and workmanship under normal use and service for a period of twenty four (24) months from date of shipment from CORPORATION's plant. This warranty is subject to CORPORATION's equipment being installed, maintained, and operated in accordance with the operating and maintenance instructions accompanying each item manufactured by the CORPORATION. Warranty shall be void if CORPORATION's equipment is modified by CUSTOMER or used in other than the recommended manner or applications. Purchased equipment incorporated into any item supplied by CORPORATION will be covered by the manufacturer's warranty.
- 7.2 CORPORATION warrants that, at the time of delivery, any other products processed or manufactured and sold by it hereunder are free of defects in material and workmanship and conform to CORPORATION's specifications.
- 7.3 No warranty is provided by CORPORATION for products sold hereunder which are not manufactured or processed by CORPORATION, but the manufacturer's warranty for such products, if any, shall be assigned to CUSTOMER without recourse to CORPORATION.
- 7.4 The foregoing warranties are in lieu of and exclude all other warranties not expressly set forth herein, whether expressed or implied by law or otherwise, including without limitation any warranty or merchantability or fitness for a particular purpose. In no event will CORPORATION be liable for consequential damages.
- 7.5 IN THE EVENT OF CORPORATION'S LIABILITY, WHETHER BASED ON CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WILL BE LIMITED, AT CORPORATION'S OPTION, TO REPAIR OR REPLACEMENT (F.O.B. CORPORATION'S PLANT) BY CORPORATION OF ANY NONCONFORMING ITEM FOR WHICH CLAIM IS MADE BY CUSTOMER OR TO REPAYMENT OF THE PORTION OF THE PURCHASE PRICE PAID BY CUSTOMER ATTRIBUTABLE TO THE NONCONFORMING ITEM. CORPORATION WILL NOT BE LIABLE FOR ANY OTHER DAMAGES, WHETHER DIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHERWISE.

### 8.0 RETURN POLICY

- 8.1 Any request by CUSTOMER for return of standard catalog products other than for warranty claims under Section 7 hereof, for all or any part of purchase order accepted by CORPORATION, shall be subject to the following conditions:
- Notification must be made to CORPORATION by CUSTOMER within thirty (30) days of original shipping date.
  - A "RETURN AUTHORIZATION" number must be assigned to and accompany all goods or materials being returned by CUSTOMER to CORPORATION. Said number must be assigned by CORPORATION prior to any and all returns. Goods not accompanied by a "RETURN AUTHORIZATION" number will be refused by CORPORATION and returned at CUSTOMER's expense.
  - CUSTOMER shall prepay shipping charges/DDP for products being returned to CORPORATION.
  - Products being returned to CORPORATION should be properly crated for shipment, and CUSTOMER shall bear the risk of loss until delivered to CORPORATION.
  - Products being returned to CORPORATION must be returned in the condition originally received by CUSTOMER and free from damage, use or modification which would render the product unusable for resale by CORPORATION.
  - All applicable taxes, duties, insurance, and shipping charges shall be the sole responsibility of CUSTOMER.
  - Goods being returned for other than warranty repair shall be subject to a restocking charge of twenty (20%) percent of the original sales price of the returned item.
- 8.2 Return of Equipment for Repair or Servicing
- Before shipping equipment for repair or servicing, obtain a Return Authorization Number assigned by the CORPORATION.



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**9.0 SERVICE CALLS**

- 9.1 Service calls, other than those required by specific terms of quotation, shall be made at the expense of CUSTOMER.

**10.0 PATENTS AND RIGHTS**

- 10.1 The equipment to be provided by CORPORATION under its quotation may include items for which a supplier of CORPORATION holds patent rights, or has patent rights pending, or has a license to manufacture under patent rights held by others. CORPORATION shall not be liable for any claims against CUSTOMER arising from such patent or license rights.
- 10.2 The acceptance of a purchase order, submittal or quotation, or supply of products, services or equipment does not constitute an offer nor imply the obligation of CORPORATION to make any patents, patent rights, or license to manufacture available to CUSTOMER or any third party having a contractual relationship with CUSTOMER with respect to any item supplied by CORPORATION.
- 10.3 All drawings, unique techniques and inventions made by CORPORATION, its agents or employees in the fulfillment of any contract shall remain the property of the CORPORATION.

**11.0 TIME IS OF THE ESSENCE**

**12.0 LAW AND FORUM**

- 12.1 All contracts and transactions between CORPORATION and CUSTOMER shall be governed and construed in accordance with the laws of the state of Tennessee and shall be enforceable only in the State and Federal Courts of said state.