

TERMS AND CONDITIONS OF SALE

All goods are shipped per these terms and conditions of sale. Agreement is effective and binding when goods have been shipped or services completed, with or without Purchaser acceptance or notice. Purchaser acknowledges receipt of this invoice, and Purchaser agrees to pay for goods. In the event of conflict, the terms and conditions of this agreement shall govern, with the rights of parties governed by the laws of the State of Texas, without regard to the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

1. DEFINITIONS

A. "Purchaser" means person, firm, or Corporation to whom invoice is addressed and unless otherwise indicated is obligated to pay, keep and perform the obligations under this agreement.

B. "Seller" means **EnDyn**.

C. "Goods" means parts, articles, materials, supplies, services, data, labor or other property described on invoice.

2. PRICES

A. Quoted prices are firm for quoted duration; otherwise, prices are subject to change without notice.

B. Prices for "Non-quoted Orders" are Seller's prices in effect on date of shipment.

C. Prices do not include sales, use, excise or similar taxes.

D. Seller reserves the right to correct typographical or mathematical errors.

3. DELIVERY

A. It is understood by Seller that prompt delivery is important. However, delivery dates are approximate and maybe extended due to design changes, factory conditions, reasonable or other delays beyond Sellers control.

B. Unless otherwise specifically indicated in a quotation, all delivery terms are FCA Alice, TX or EXW point of shipment (defined by INCOTERMS).

4. PAYMENT

A. Payment is due, in the currency invoiced, 30 days from date of invoice, at Seller's place of business, Alice, Texas.

B. Delivery by Seller to a carrier constitutes delivery to Purchaser. Purchaser or Purchaser's representative's signature on carrier's delivery tickets constitutes a security agreement. Seller retains a purchase money security interest and lien to secure payment of all amounts owing under this invoice, until paid.

C. Seller retains title to goods until payment is received. The signing of a carrier delivery ticket by a representative of Purchaser constitutes a security agreement as contemplated by Article 9 of the Uniform Commercial Code.

D. Past due accounts will bear interest on the unpaid principal amount at the rate of 18% per annum, until paid. Purchaser shall pay all costs of collection incurred by Seller, including attorney's fees, costs and expenses.

5. WARRANTY

A. Seller warrants all new Goods of its manufacture to be free from defects in material or workmanship under normal use and service for a period of two (2) years from the date of delivery, with approved Installation Data Sheets. Seller warrants repair and return, overhaul, or unit exchange Goods for one (1) year from delivery date. Seller warrants services for six (6) months from the date of performance against defects in material or workmanship.

B. All repair covered by this warranty must be done at Seller's factory, or other such warranty repair facilities of Seller as designated by Seller unless Seller specifically directs that this service be performed at another location. All shipment or transport charges shall be prepaid by Purchaser. Any defect found to be within this scope of the warranty will be repaired by Seller and all charges for labor and material will be borne by Seller. If it is determined, at Seller's sole discretion, that either no fault exists in Seller, or the damage to be repaired was caused by negligence of Purchaser, its agents, employees or customers, Purchaser agrees to pay all charges associated with each such repair.

C. With respect to Goods supplied but not (engineered or) manufactured by Seller, Seller will fulfill its warranty obligations by solely assigning warranty rights covering this Goods from the manufacturer. Substantiation of warranty claims for such Goods shall be by the original manufacturer of the Goods. As such, Seller shall provide a remedy to Purchaser only to the extent that the claim is substantiated and remedied by the original manufacturer of the Goods.

D. The warranty stated herein constitutes the sole warranty made by seller either expressed or implied. There are no other warranties expressed or implied which extend beyond the face hereof, herein, including the implied warranties of merchantability and fitness for a particular purpose. In no event shall Seller be liable for any incidental or consequential damages and Purchaser's remedies shall be, at Seller's sole discretion limited to either (1) repair or replacement of nonconforming units or parts; or (2) refund of the purchase price less a reasonable deduction for utilization of the Goods. The limited express warranty provided and the remedies mentioned above are in lieu of any and all other liability for Seller's negligence, strict liability or fault.

E. Any tampering, misuse or negligence in handling, storage or use of Goods renders the warranty void. Further, the warranty is void if, at any time, Purchaser attempts to make any internal changes to any of the components of the Goods; or if there is improper installation, storage, maintenance or operation of the Goods which is not in compliance with industry standard procedures and specifications and which is not within the performance range of the specific goods. Operation of the Goods that renders this warranty void will be defined to include all of the possibilities described in this paragraph, together with any practice which results in conditions exceeding the design performance range of the Goods.

6. DAMAGES - IN NO EVENT WILL SELLER BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOSS OF EQUIPMENT USE, OR LOSS OF ANTICIPATED PROFITS. THIS LIMITATION APPLIES TO GOODS DELIVERED, FAILURE OF GOODS, OR DELIVERY DELAYS.

7. INDEMNITY - PURCHASER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, SUITS AND LIABILITY (INCLUDING EXPENSES AND ATTORNEY'S FEES) ARISING OUT OF ANY CLAIM FOR LOSS OF OR DAMAGE TO PERSON OR PROPERTY ARISING OUT OF OR RELATED TO PURCHASER'S ALTERATION, UNAUTHORIZED REPAIR, IMPROPER USE, OPERATION ABOVE SPECIFIED PERFORMANCE, MISAPPLICATION, NEGLIGENCE OR WILLFUL MISCONDUCT OR VIOLATION OF ANY LAW OR REGULATION.