



# BENCH DOGS

ENGINEERING EXPERIENCES

## TERMS AND CONDITIONS OF SALE

### General Terms and Conditions of Sale

All sales by Bench Dogs (herein known as “Seller”) shall be subject to the following terms and conditions. Should credit availability be granted by Seller, all decisions with respect to the extension or continuation of credit shall be at the sole discretion of Seller. Seller may terminate any credit availability at its sole discretion and at any time upon notice to you the “Buyer”.

### Terms of Payment

All invoices are to be paid as per the terms of sale printed upon and/or referenced in each quotation and printed upon and/or referenced on the invoice. All estimates, proposals and invoices are in US dollars. Invoices are payable to the remittance address specified on invoice. Terms are subject to change over time. Open account status will be made only if the Customer (Buyer) has an acceptable credit rating and a signed credit application. Non-credit accounts require pre-payment by business check or ACH debit. Any exchange of charges or any charges for no-par clearance of checks will be charged to Buyer’s account. Accounts not paid on time are subject to suspension of Seller’s performance, as well as cost of collection (including, without limitation, reasonable attorneys’ fees and court costs) and interest up to the maximum allowed by applicable law. If the Buyer’s account is placed in the hands of an outside agency for collection, the Buyer agrees to pay all collection costs and/or attorney’s fees in addition to all other sums due. Seller reserves the right, at its option and without liability therefore, to divert to itself any shipment in transit in the event of insolvency of the Buyer or any change of ownership of the Buyer’s general property occurring prior to delivery.

### Deposits

Any deposit(s) accepted by Seller will be applied to amounts due as specified in the accepted quotation or purchase order, or as otherwise set forth herein. Buyer agrees and acknowledges that if Buyer changes its order, Seller reserves the right to request an additional deposit and that Seller shall not be obligated to fulfill or perform on any such changes to the order unless and until Buyer pays any additional required deposit as specified by Seller.

### Acceptance of Orders

All orders and sales contracts are subject to written approval and acceptance by Seller and are not binding on Seller until and unless so approved and accepted. Any terms or conditions of sales specified on a Buyer’s purchase order or purchase contract which are in conflict with, inconsistent with, or in addition to the terms and conditions of sale contained in the quotation or acknowledgement, shall not be binding upon the Seller unless expressly accepted in writing by the Seller, and any action or inaction by Seller shall not be considered an express acceptance of any of Buyer’s terms. In a case of such conflict not expressly accepted by the Seller, these terms and conditions shall supersede the conflicting terms stated in the Buyer’s purchase order or contract. The acceptance of an order by Seller will supersede all prior communications and constitute a complete and binding contract, subject to these terms and any terms contained in the Seller’s quotation, which cannot be modified or cancelled without written consent of both parties.

### Details of Manufacture

General specifications, renderings, and drawings are intended to convey the details of manufacture contemplated at the time of generation. Seller reserves the right to modify details of the materials and



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specifications from previously provided specifications, renderings, and drawings to accommodate materials and conditions present at the time of manufacture.

## Delivery of Freight

Prices on shipments are FOB shipping point unless otherwise specified in Seller's order acknowledgement. Delivery to carrier at point of origin shall constitute delivery to the Buyer, and title and all risk of loss shall pass to Buyer upon such delivery. Seller will attempt to comply with, but will not guarantee, requested shipping date, loading and routing instructions. Shipping dates provided on Seller's order acknowledgements are approximate and provided for informational purposes only. Seller shall not be liable for failure to deliver, or delay in delivery of, any order, regardless of cause.

## Storage and Warehousing

Orders postponed by the Buyer beyond the original ship date could be subject to storage and warehousing charges including a charge of 1% per month (APR) on the value of the order beginning the 1st of the month following originally agreed upon date of shipment. The period of storage and warehousing must be agreed upon between both Seller and Buyer in writing. Furthermore, Buyer agrees that Seller may (but shall not be obligated) to apply all or any portion of any of Buyer's deposit(s) to all such storage, warehousing and other charges.

## Pricing

Prices shall be per applicable quotation at the time the order is accepted by the Seller.

## Liability and Warranty

Except where Seller has provided an express written warranty for its product, Seller warrants only that at the time of shipment the goods sold hereunder will be as described in the order. THERE ARE NO OTHER WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED. THE SELLER'S LIABILITY ON ACCOUNT OF ANY WARRANTIES OR CLAIMS OF ANY KIND SHALL BE LIMITED TO THE REPLACEMENT OF THE GOODS IN QUESTION OR AT THE SELLER'S OPTION, A CREDIT TO BUYER OF THE PURCHASE PRICE PAID. IN NO CASE WILL SELLER BE LIABLE FOR PROSPECTIVE PROFITS OR FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES. The Buyer waives all rights to reject the goods sold by the Seller unless filed with the Seller in writing within 7 days of receipt of shipment.

- a) Hold Harmless/Indemnity Clause - Buyer (its employees, agents and/or contractors) agrees to protect, defend, indemnify and save harmless Bench Dogs (its officers, directors, partners, parent companies, insurers, re-insurers, agents, affiliates, attorneys, employees, successors and/or assigns) of, from and against any and all claims, actions (whether brought in any ADR mechanism and/or in court), damages (including, without limitation, punitive, consequential, and/or special), costs, expenses (including, without limitation, reasonable attorney's fees and other costs of suit), liability, fines, penalties, suits, and fees exceeding the cost of replacement of displays and related goods provided by Seller and arising out of or attributed, directly or indirectly, to the installation and use of these displays, samples, and related goods hereunder, regardless of whether the same is caused by the conduct, or any act or omission, or the operation or performance of Buyer or any employee, agent, or contractor of Buyer.
- b) Waiver of Subrogation - To the extent that damages are covered by property, liability and/or casualty insurance, Buyer on its behalf and that of its insurers waives all rights, claims and causes of action against



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Bench Dogs including without limitation, rights of subrogation against Bench Dogs and against consultants, agents, and employees of Bench Dogs for damages, except such rights as Buyer may have to the proceeds of such insurance.

## Claims and Cancellations

- a) Any cancellation of an order by the Buyer must be by written notice. Seller will cease production as promptly as reasonably possible. Buyer will be invoiced for all labor and materials produced up to the point of cancellation as well as reasonable costs of disposal of the materials in process, and agrees that Seller may (but shall not be obligated) apply all or any portion of Buyer's deposit(s) for such charges.
- b) In case of any claim against the Seller for defective material or invoices, written notice accompanied by pictures of the damages/defect must be submitted to the Seller within 7 days after receipt of shipment to give full basis for such claim. The Seller shall have 60 days from date of receipt of such notice to inspect and dispose of the defective material if such claim is allowed. Under no circumstances is material to be returned to the Seller unless the Buyer has received the Seller's written instructions to do so. The Buyer shall have no right to deduct the amount of any claim from Seller's invoice until a claim is allowed by Seller or adjudicated by proper authority.
- c) All claims for loss or damage in transit must be filed with the carrier by the Buyer. Materials are loaded in accordance with carrier's loading rules to insure delivery without damages. However, the Seller will give all reasonable assistance to the Buyer in collecting loss and damage claims from carriers by furnishing duplicate invoices, loading tallies, Bills of Lading, etc. Buyers should in all cases promptly report any loss and/or damage.

## Taxes

Any sales tax or manufacturer's processing taxes or similar taxes, excises or charges which are now or hereafter may be levied, imposed or charged against the Seller (whether by federal, state, municipal, or other public authority) on account of, or upon the sale by the Seller to the Buyer of any of the Seller's products listed herein will be (to the extent authorized or permitted by law), added to the applicable prices quoted and shall be paid by the Buyer, unless proper documentation is received by Seller in advance, exempting Buyer.

## Governing Law/Choice of Forum

This Order is made in the Commonwealth of Pennsylvania and it (along with all rights, duties and obligations arising hereunder) shall be construed, interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania. The parties further agree that any claim or action relating in any way to Buyer's Order (apart from actions in which Bench Dogs seeks equitable relief) shall be brought in the Court of Common Pleas of Lehigh County, Pennsylvania, or if based solely upon federal law, in the United States District Court for the Eastern District of Pennsylvania. Buyer submits to the exclusive jurisdiction of said Courts. Furthermore, Buyer agrees that venue in said Courts shall be proper in all respects and covenants not to assert any defense or objection to the venue of said Courts.

Customer Acknowledgement:

Initials: \_\_\_\_\_

Date: \_\_\_\_\_