

TERMS AND CONDITIONS OF SALE

Davis Tool, Inc. - May 14, 2008

The following is to be included by specific reference in all quotations issued by Davis Tool, Inc. (DTI).

1. Contract Formation/Revision. THE PLACEMENT OR ACCEPTANCE OF ANY ORDER, INDICATES BUYER'S COMPLETE AND UNCONDITIONAL CONSENT TO THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. The formation of any contract and Buyer's acceptance of any order is expressly conditioned on acceptance of this Agreement as the exclusive terms and conditions related to such order. Any additional, inconsistent, or differing terms or conditions proposed by Buyer are hereby rejected by Seller. If Buyer does not agree to these terms and conditions, it must immediately contact Seller and discontinue placing any orders or cancel any outstanding orders.

This Agreement contains the entire understanding between the parties relating to its subject matter and supersedes all prior or contemporaneous agreements, including but not limited to any purchase order terms and conditions. The terms and conditions of this Agreement shall not be modified by any prior course of dealing or trade customs and usage. This Agreement may only be modified by a physically signed writing between Buyer and Seller. Waiver of terms or excuse of breach must be in writing and shall not constitute subsequent consent, waiver or excuse.

2. Patent Infringement. Buyer assumes liability for patent and copyright infringement when goods are made to Buyer's specifications.

Buyer agrees to hold harmless and indemnify Seller (including its directors, officers, employees, and agents) from and against all claim, demands, or causes of action, including attorney fees, costs, and expenses, related to any such patent or copyright infringement claims. This section shall survive termination or expiration of this Agreement

3. Shipments / Freight. Unless otherwise specified on the quote, all shipments are to be FOB Hillsboro Oregon. Title and risk of loss shall pass to Buyer at the FOB point.

4. Payment. Payment terms are as specified on the quotation issued by Seller. If none, terms shall be COD. The full amount billed for is due and payable from the date of the invoice unless otherwise stated. Late payments are subject to a charge computed at a periodic rate of 1.5% per month (18% annual) on the unpaid balance, and Buyer agrees to pay such charges and to pay reasonable fees if action is brought to collect from Buyer.

5. Cancellation by Seller. The performance of work under any order or contract resulting from this quotation, may be terminated without penalty, in whole or in part at any time by Seller, effective as of the date specified by Seller, providing 30 day written notice is given to the Buyer stating the effective date and supporting reasons for the necessity of cancellation.

6. Cancellation by Buyer. Orders may be canceled by the Buyer by providing written notification to the Sellers' customer service department. Orders shall also be considered canceled if they are placed on hold by the Buyer for more than 30 days, or if the Buyer fails to provide necessary materials (drawings, specifications, raw material, or tooling).

In the event of cancellation by the Buyer, in whole or in part, Buyer shall be liable for payment of cancellation charges in the amount of all losses, costs, expenses and/or damages incurred or suffered by Seller.

7. Warranty / Buyer's Remedies / Limitation of Liability. Seller warrants that the products manufactured and sold by Seller shall be in accordance with specifications agreed to at the time of quotation and free from defects in material and workmanship for a period of ninety (90) days from the date of delivery to Buyer if used under normal circumstances and provided any defect(s) are not the result of: (i) installation method; (ii) customer or third party abuse or misuses; (iii) failure to adhere to seller's instructions; or (iv) except as otherwise may be specifically stated in Sellers product literature, wear, or deterioration due to environmental conditions. Buyer shall give written notice to Seller within 20 days of the discovery of any alleged defect within such ninety (90) day period, and any action shall be brought within one (1) year after such breach of warranty is or should have been discovered.

THE ABOVE IS THE SOLE AND EXCLUSIVE WARRANTY OF SELLER; THERE ARE NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER'S LIABILITY UNDER THIS AGREEMENT EXCEED THE ACTUAL AMOUNTS PAID FOR THE ORDER GIVING RISE TO THE CLAIM.

IN NO EVENT SHALL SELLER BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS OR SAVINGS) WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF SUCH DAMAGES OR THE POTENTIAL FOR SUCH DAMAGES.

8. Return Authorization. Products shall not be returned without Seller's prior written authorization. Shipments returned to Seller without prior written authorization may be returned to Buyer, at Buyer's expense, plus an appropriate handling charge. For return authorization, contact Seller's customer service at (503) 648-0936.

9. Life Endangering Activities. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES RESULTING FROM OR IN CONNECTION WITH THE USE OF PRODUCTS DELIVERED UNDER THIS AGREEMENT IN ANY APPLICATION WHERE THE FAILURE OR INACCURACY OF THE PRODUCT MIGHT RESULT IN DEATH OR PERSONAL INJURY. BUYER AGREES TO INDEMNIFY AND HOLD HARMLESS SELLER (INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES (ACTUAL OR CONSEQUENTIAL) OR OTHER LIABILITY, INCLUDING ATTORNEYS' FEES, ARISING OUT OF OR IN CONNECTION WITH SUCH USE. This section shall survive termination or expiration of this Agreement.

10. Tooling. Regardless of the payment of specifically identified tooling or similar non-recurring charges, all tooling (including without limitation tools, dies, molds, fixtures, jigs, shop aids, special machines, designs, patterns and drawings) designed or created by Seller for use in manufacturing goods for Buyer shall be and remain the exclusive property of Seller. Seller shall have exclusive ownership of any intellectual property rights in such tooling, including any patents based on or derived from such tooling, regardless whether Buyer has provided input or suggestions in the design or creation of such tooling. Buyer shall have no interest in such tooling nor any right to prevent Seller from using such tooling in the manufacture of goods for other buyers. Despite the terms of this section, if the applicable quote specifically states "Customer shall own tooling upon completion of order," then Buyer shall have exclusive ownership rights in such tooling included in that specific quote and Buyer hereby grants Seller an irrevocable, nonexclusive, royalty-free license to design and create identical or derivative tooling for any purpose or use.

11. Non-Recurring Charges. The additional development cost of a first run contract are charged as Non-Recurring Charges. Payment does not imply transfer of ownership of intellectual property, jigs, fixtures and/or shop aids used in the completion of a first run contract.

12. Force Majeure. All quotations and agreements are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control.

13. Attorney Fees. In addition to other relief, the prevailing party in any legal action arising out of or in connection with this Agreement shall be entitled to recover reasonable attorneys' fees and expenses related to petitions, trials or appeals.

14. Governing Law. The validity, interpretation and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Oregon.

15. Jurisdiction and Venue. Both parties irrevocably consent to jurisdiction and venue in the Circuit Court of the State of Oregon for the County of Washington.