

## FISCHER TECHNOLOGY INC. TERMS AND CONDITIONS

1. **Offer and Acceptance:** Seller's shipment is not an acceptance of any offer that Buyer may have made to Seller. The terms and conditions shown on the face and reverse sides of this invoice shall constitute a part of any contract which may be entered into between Seller and Buyer and shall not be altered, modified, or added to unless expressly agreed to by Seller in writing. No course of dealing or performance, no trade usage, and no additional or different terms and conditions contained in Buyer's purchase order shall affect these terms and conditions. All provisions and prices are subject to change after 30 days from the date of this invoice. Buyer's acceptance of the products sold hereunder shall constitute Buyer's acceptance of these terms and conditions.
2. **Price:** Although this invoice quotes Seller's current prices, Buyer shall pay the prices that are in effect at the time of shipment. The sale, use, and shipment of Seller's products are subject to applicable federal, state, and local taxes now or hereafter becoming effective. Buyer's failure to make any payment or to accept delivery of Seller's products in accordance with Seller's shipping schedules shall constitute a breach of any contract which may be entered into between Seller and Buyer. Upon such breach, Seller may suspend deliveries until it receives Buyer's payment and Seller may cancel the contract. Buyer shall be liable to Seller for all damages including, without limitation, consequential damages. Further, Buyer shall pay Seller the full purchase price for any of Seller's products specifically fabricated for Buyer. If Seller brings suit to collect any accounts payable from Buyer, Seller shall be entitled to collect all reasonable costs of collection and expenses of suit, including, but not limited to, reasonable attorneys' fees.
3. **Shipment:** Seller shall ship all products F.O.B. Windsor, Connecticut.
4. **Payment:** Payment shall be 30 days Net. Seller reserves the right to charge interest on invoices not paid within thirty (30) days.
5. **Delivery:** Quoted delivery dates are Seller's best estimates. Seller shall not be liable for any delay in delivery or failure to deliver resulting from circumstances beyond Seller's control. Buyer's acceptance of delivery shall constitute a waiver of any claim against Seller for delay.
6. **WARRANTY AND REMEDY:** SELLER WARRANTS THAT THE PRODUCTS SOLD HEREUNDER SHALL BE FREE OF DEFECTS IN MATERIAL AND WORKMANSHIP FOR ONE (1) YEAR FROM THE DATE OF SHIPMENT UNLESS OTHERWISE NOTED. THIS WARRANTY IS SELLER'S SOLE OBLIGATION AND EXCLUDES ALL OTHER REMEDIES OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER OR NOT PURPOSES OR SPECIFICATIONS ARE DESCRIBED HEREIN. SELLER FURTHER DISCLAIMS ANY AND ALL RESPONSIBILITY TO BUYER OR TO ANY OTHER PERSON FOR INJURY OR DAMAGE TO OR LOSS OF PROPERTY OR VALUE CAUSED BY ANY PRODUCT WHICH HAS BEEN SUBJECTED TO MISUSE, NEGLIGENCE, OR ACCIDENT, OR HAS BEEN MISAPPLIED, MODIFIED, OR REPAIRED BY A PERSON OR PERSONS NOT AUTHORIZED BY SELLER, OR HAS BEEN IMPROPERLY INSTALLED. Notwithstanding anything in this Paragraph 6 to the contrary, the warranty period for the following component parts shall be six months from the shipment date: Probe(s). Seller will pay reasonable charges incurred in shipping to and from Seller's Windsor, Connecticut plant for Seller's designated repair facility products for which Buyer has filed and Seller has accepted a warranty claim within 30 days after the invoice date. Regardless of whether seller has undertaken responsibility for the cost of shipping the products for purposes of a warranty claim or a repair warranty as set forth in paragraph 7 hereof; prior to such shipment, buyer shall notify seller to determine whether any special packaging is required for shipment. Buyer's failure to obtain such determination from seller, or having obtained such determination, buyer's failure to follow seller's instructions, shall limit or eliminate seller's warranty obligations to the extent improper packaging caused or could reasonably be deemed to have caused damage to the products.
7. **Repair Warranty:** Seller warrants for 30 days after the repair invoice date repairs which it or its designated repair facility has made. Seller will pay reasonable charges incurred in shipping to and from Seller's Windsor, Connecticut plant or Seller's designated repair facility products for which Buyer has filed and Seller has accepted a repair warranty claim within 30 days after the repair invoice date.  
THIS REPAIR WARRANTY IS SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPH 6 OF THIS INVOICE.
8. **Inspection:** Buyer shall inspect the products promptly after receipt and shall notify Seller in writing of any claims, including warranty claims, within thirty (30) days after Buyer discovers or should have discovered the facts upon which the claim is based. Failure of Buyer to give such written notice shall constitute a waiver of such claim.
9. **Limitation of Liability:** Under no circumstances shall Seller be liable for any incidental, consequential, or special damages, losses, or expenses arising from this invoice or its performance or in connection with the use of, or inability to use, the products for any purpose whatsoever. In no event shall Seller's liability exceed the purchase price of the products that gave rise to the claim.
10. **Limitations of Actions:** Buyer may not commence any action arising out of this invoice more than one year after the cause of action has accrued.
11. **Patents:** Seller makes no warranty that the products sold hereunder will be delivered free of the rightful infringement claim of any third party. If the products are to be furnished to Buyer's specification, Buyer agrees to defend, indemnify and hold harmless Seller and its successors and assigns against all liabilities and expenses, including attorney's fees, resulting from any claim of infringement of any patent, copyright, or trademark in connection with the production, sale, or use of such products.
12. **Packing:** Seller will charge Buyer for any packaging other than Seller's standard packaging and commercial container.
13. **Indemnification:** If Buyer combines the products sold hereunder with other parts for resale, Buyer shall defend and indemnify Seller against and hold Seller harmless from all losses, costs, and expenses, including attorneys fees, resulting from claims that are based on such combination.
14. **Changes by Buyer:** Seller may adjust prices in the event Buyer changes the specifications, quantities, or delivery requirements after Seller's acknowledgement of Buyer's order. All warranties, limitations of liability, disclaimers, and indemnity agreements as contained in Paragraphs 6, 8, and 13 herein, together with all other paragraphs hereof; shall apply with respect to all products affected by any such change and no modification or rescission of any such warranty, limitation of liability for damages, disclaimers, or indemnify agreement shall be binding on Seller unless contained in an express writing to the effect signed by Seller.
15. **Cancellation:** Buyer may cancel this order, in whole or in part, upon written notice to Seller and upon payment of a cancellation charge, which shall be the sum of (1) the purchase price of all products that have been delivered and not previously paid for, plus (2) the actual cost incurred by Seller that is properly allocable to the products not delivered at the time of notice of cancellation, including, without limitation, the cost of special components and materials purchased for use in producing such products, plus (3) the profits, including reasonable overhead, that Seller would have made from full performance by Buyer, plus (4) the costs of engineering prototypes, testing, tooling, and similar items produced for Buyer, plus (5) the reasonable costs incurred by Seller in reaching settlement and affecting collection hereunder. Buyer may require delivery of any material for which payment is made.
16. **Interpretation:** Rights and liabilities arising out of any contract between Seller and Buyer shall be determined under the Uniform Commercial Code as enacted in Connecticut.
17. **Assignment and Transfer:** Buyer shall not assign or transfer this invoice without Seller's prior written approval.
18. **Title and Risk of Loss:** Seller shall retain title to products sold hereunder until Buyer pays in full for such products. Buyer shall bear the risk of loss and damage from the time the products are delivered to a carrier at the shipping point, whether or not the freight is prepaid.
19. **Information:** Buyer shall assert no claim, other than a claim for patent infringement, against Seller with respect to any information that Buyer may have disclosed or may hereafter disclose to Seller in connection with the products or services to be provided hereunder. All such disclosures shall be nonconfidential and free from all restrictions except those provided under any applicable patent laws.
20. **Law and Jurisdiction:** Seller and Buyer agree that these Terms and Conditions shall be deemed part of a Connecticut Contract and shall be governed by the laws of the State of Connecticut. Further, Buyer and Seller agree that any disputes arising in connection with these terms and conditions shall be exclusively resolved in either the State or Federal Courts of Connecticut.