



TERMS AND CONDITIONS

1. GENERAL. The acceptance of any Quotation submitted by Parker SSD Drives shall incorporate acceptance of these terms and conditions and of Special Conditions (if any) specified in the Quotation. Any conditions proposed by the Customer shall except insofar as they conform to these terms and conditions by expressly excluded.
2. ACKNOWLEDGMENT. All quotations are subject to acceptance by Parker SSD Drives in Charlotte, North Carolina on receipt of the Customer's order and no contract shall be concluded until confirmation of acceptance is given or the Customer's order is otherwise accepted by Parker SSD Drives.
3. PRICES
 - A. Prices quoted are net FOB Charlotte, North Carolina, prices ruling at the date of quotation and are exclusive of taxes, packing and shipping charges which will be involved at the date of dispatch. Payment of such charges shall be made in accordance with the payment terms for the equipment. Quotations are open for acceptance for 30 days unless otherwise stated.
 - B. Parker SSD Drives reserves the right to vary the quoted prices and to invoice the Customer at the price ruling at the date of dispatch of the goods whether these are of Parker SSD Drives or other manufacture.
 - C. Where Parker SSD Drives has agreed a fixed price with the Customer or has accepted an agreed price variation formula, Parker SSD Drives reserves the right notwithstanding such agreement to vary prices if between the dates of quotation and delivery:
 - i. there has been any variation of the Order; or
 - ii. Parker SSD Drives has had to delay or suspend work on the Order due to either:
 - a. Customer instructions; or
 - b. lack of Customer instructions; or
 - c. lack of Customer information; or
 - d. delay or failure of the Customer to provide free issue material.
4. PAYMENT
 - A. Subject to Parker SSD Drives' approval of the Customer's current credit rating, payment shall be made within 30 days from invoice date unless otherwise specified in the quotation. Past due accounts will bear a finance charge of 1½% per month on the unpaid balance which corresponds to an 18% annual percentage rate. If the customer fails to pay Parker SSD Drives in accordance herewith Parker SSD Drives may, without prejudice to other remedies that may be available, either suspend all further deliveries of equipment and performance of services (whether under this Contract or otherwise) until payment is made in full or cancel the Contract and subsequent contracts as far as equipment remains to be delivered and services to be performed thereunder.
 - B. Parker SSD Drives will use its best endeavors to make shipments of the equipment as agreed with the Customer but reserves the right to make such part or complete shipments as may be most convenient to it or, where due to circumstances beyond its control, it is unable to make shipment as agreed. Invoices will be delivered for actual shipments made and payment is due to Parker SSD Drives in accordance with the payment terms in 4.A above.
5. ACCEPTANCE. Acceptance of the order by Parker SSD Drives is subject to provision by the Customer of full and final information to enable Parker SSD Drives to proceed with manufacture and the Customer agrees to provide such information promptly as required. If in the opinion of Parker SSD Drives the Customer has failed to provide sufficient information as required by the Quotation, Parker SSD Drives will not proceed with the order until full and final information is made available. In such event Parker SSD Drives shall be entitled to vary prices and delivery periods or dates in accordance with these terms and conditions.
6. LIMITS OF CONTRACT
 - A. The Quotation includes only such equipment, accessories and works as is specified therein and if any variations are required they will be charged in addition to the quoted price. Variations to the Quotation are accepted subject to these terms and conditions only.
 - B.
 - i. The Customer shall accept all liability for provision to Parker SSD Drives of all free issue material required by the Contract and Parker SSD Drives shall be under no liability whatsoever in respect thereof or for the commissioning thereof notwithstanding that the contract provides that Parker SSD Drives shall install such material.
 - ii. In the event that delivery of such material to Parker SSD Drives is for any reason delayed, Parker SSD Drives shall be entitled to invoice the Customer for work already completed and the Customer shall on giving reasonable notice be entitled to inspect such work during normal working hours.
7. CANCELLATION. The Customer may not cancel any order accepted by Parker SSD Drives but in the event of any cancellation Parker SSD Drives shall be entitled to recover cost incurred as a result of cancellation and loss of profits which shall be calculated by Parker SSD Drives but shall not in any event exceed the total contract value.
8. DELIVERY, TITLE AND RISK
 - A. Unless otherwise stated in the Quotation any delivery dates or periods given are estimates only and shall not be construed as fixed. While every effort will be made to maintain delivery schedules time is not of the essence in this respect and Parker SSD Drives hereby excludes all liability for any loss or damage whatsoever including consequential loss or damage suffered by the Customer as a result of delays.
 - B. Delivery dates and periods shall be extended as necessary if delay in delivery is caused as set out in paragraph 3.C of these terms and conditions or by industrial dispute or due to any other circumstances beyond the control of Parker SSD Drives. If any such delay causes Parker SSD Drives to revise agreed production schedules, delivery will (subject to these terms and conditions) be in accordance with such revised schedules which will be notified to the Customer.
 - C. PRICES ARE QUOTED EXCLUSIVE OF PACKING AND SHIPPING CHARGES, UNLESS OTHERWISE STATED, THE FOB POINT IS CHARLOTTE, NORTH CAROLINA. DELIVERY TO COMMON CARRIER OR POSTAL AUTHORITIES AT CHARLOTTE, NORTH CAROLINA SHALL CONSTITUTE DELIVERY AND PASSING OF TITLE TO THE CUSTOMER, WHO SHALL THEREAFTER BE RESPONSIBLE FOR DELAYS, LOSS OR DAMAGE IN TRANSIT.
9. NON-ACCEPTANCE. Parker SSD Drives will not accept return of equipment correctly supplied in accordance with the Order.
10. INSPECTION AND TESTS
 - A. The equipment when practicable undergoes Parker SSD Drives standard tests before dispatch. If tests other than standard or those (if any) specified in the Quotation or tests in the presence of the Customer or Customer's representative are agreed these will be charged for and must be commenced within 7 calendar days of notification that Parker SSD Drives is ready. If the Customer fails to attend within that time the tests will proceed in the Customer's absence and shall be deemed to have been made in his presence and the Customer shall be bound by the results thereof and the equipment will be dispatched and invoiced accordingly. Should Parker SSD Drives agree to delay a functional, witnessed test specified in the contract, all reasonable expenses which Parker SSD Drives may incur as a result of the delay will be charged extra and shall be payable by the Customer.
 - B. Visual inspection of complete equipment by the Customer's representative during normal working hours may be arranged on request and without charge.
11. COMMISSIONING. Start up of equipment is not undertaken by Parker SSD Drives unless specifically referred to in the Quotation. Where commissioning is included Parker SSD Drives Standard Terms and Conditions for Commissioning shall apply and these may vary certain clauses contained herein.

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12. WARRANTY AND LIABILITY

- A.
- i. Parker SSD Drives will repair or (at its option) replace any equipment manufactured by Parker SSD Drives which is found within 12 months after delivery thereof to be defective by reason of faulty materials, workmanship or design provided that such defect is notified to Parker SSD Drives within four weeks of becoming apparent and that the equipment is returned forthwith, freight paid to the premises of Parker SSD Drives or at the option of Parker SSD Drives is made available at the Customer's premises for attention by Parker SSD Drives engineers. Where the equipment is repaired at Parker SSD Drives' option on the Customer's premises, the Customer accepts liability for payment of travel and subsistence expenses of the Parker SSD Drives engineer.
 - ii. In respect of goods not of Parker SSD Drives manufacture, the Customer shall be entitled only to such benefits as Parker SSD Drives may recover under any guarantee given to Parker SSD Drives in respect thereof by the manufacture.
- B. Parker SSD Drives accepts no liability under this clause:
- i. In respect of damage sustained in transit, liability for which is dealt with in paragraph 8 hereof;
 - ii. For defects caused by installation, operation or maintenance carried out other than in accordance with instructions supplied with the equipment or by wear and tear, accident or misuse, improper operation or neglect or arising as a result of the fitting of any equipment which does not comply with Parker SSD Drives recommendations or otherwise as a result of failure of the Customer to comply in full with any manual or handbook containing the technical specifications and operating instructions supplied by Parker SSD Drives with the equipment;
 - iii. Where equipment has been used for an application other than that specified at the time the Order was acknowledged or not in accordance with Parker SSD Drives instructions;
 - iv. Where the Customer has failed to observe the terms of payment for the equipment and all other obligations imposed by these terms and conditions.
- C. Where equipment has been ordered, obtained or manufactured to the Customer's own design or specification Parker SSD Drives can accept no liability for any failure or defect in such equipment except insofar as such failure or defect arises directly as a result of the failure of Parker SSD Drives to follow the design or specification provided and in particular Parker SSD Drives gives no warranty as to the fitness for any particular purpose of goods so supplied to the Customer's design or specification. The Customer shall indemnify Parker SSD Drives in respect of all liability, loss or damage suffered by Parker SSD Drives as a result of Parker SSD Drives following designs or specifications provided by the Customer including any such liability suffered as a result of a claim by a third party for infringement of intellectual property rights.
- D. Except as specifically set out herein Parker SSD Drives shall be under no liability in respect of the quality, conditions or description of equipment or for any loss or damage howsoever caused to the Customer or to any other person and any term, condition or representation to the contrary whether expressed or implied by statute, common law or otherwise is hereby expressly excluded.
- E. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

13. LIMITATION OF LIABILITY. Seller's liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with, or resulting from this sales contract or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, installation, repair operation or use of any equipment covered by or furnished under this agreement shall in no case (except as provided under "PATENTS") exceed the purchase price of the equipment which gives rise to the claim. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT OR NEGLIGENCE, SHALL SELLER BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF EQUIPMENT OR ANY OTHER EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COST, OR CLAIMS OF CUSTOMERS OR PURCHASER FOR SUCH DAMAGES EVEN IF SELLER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS BY PURCHASER OR ANY THIRD PARTY.

14. HEALTH AND SAFETY AT WORK

- A. The Customer undertakes that it will comply and will procure that its employees, customer and every other person working with, on or near or using the equipment, comply in full with the instructions and recommendations made in any manual or handbook provided by Parker SSD Drives or other manufacturer of the equipment that they will comply with all other instructions given in connection with the use or operation of the equipment.
- B. The equipment detailed in our quotation is designed to operate without danger to health and safety where correctly installed by competent personnel and used in accordance with the relevant US Standards, the rating for which it was designed and accepted good practice. If it is intended to operate or use the equipment under unusual conditions, especially if special danger to health and safety from the equipment may occur, Parker SSD Drives must be informed accordingly, as otherwise no liability can be accepted by Parker SSD Drives for any loss or damage caused.
15. IMPROVEMENTS AND ALTERATIONS. Parker SSD Drives has a policy of continuous improvements to its products and in pursuance of this policy reserves to itself the right to make without notice any changes in materials, specifications or designs of equipment which having regard to all the circumstances it believes to be reasonable or desirable but which do not affect the basic operation or price of the equipment and such changes shall not affect the validity of the contract.

16. PATENTS. Parker SSD Drives shall defend any suit or proceeding brought against the Purchaser so far as based on a claim that any equipment, or part thereof, furnished under this contract constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at Parker SSD Drives' expense) for the defense of same, and Parker SSD Drives shall pay all damages and costs awarded therein against the Purchaser. In case said equipment, or any part thereof, is in such suit held to constitute infringement and the use of said equipment or parts is enjoined, Parker SSD Drives shall, at its own expense and at its option, either procure for the Purchaser the right to continue using said equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing, or remove said equipment and refund the purchase price. The forgoing states the entire liability of Parker SSD Drives for patent infringement by said equipment or any part thereof.

17. DOCUMENTATION REPRESENTATION AND COPYRIGHT

- A. Although every reasonable precaution will be taken to ensure accuracy of such information, all descriptive matter, weights, dimensions, performance figures and other documentation supplied by Parker SSD Drives and the descriptions and illustrations contained in its catalogs, price lists and other advertising matter are approximate only and are intended merely to describe generally the equipment. They are not, unless it is expressly so stated in the contract, deemed to form any part of any contract of sale and are not to be regarded as a warranty or representation. Where such weights, dimensions and performance figures are contained in any offer, quotation, acceptance or contract, they may be varied to the extent permitted by normal manufacturing tolerances.
- B. All Parker SSD Drives specifications, drawings and technical representation submitted are the property of Parker SSD Drives and shall not be reproduced or copied or used in whole or in part as the basis of the manufacture or sale of items without written permission of Parker SSD Drives. All such material and all information and "know-how" whenever supplied shall at all times be treated by the Customer as confidential and shall not without the consent of Parker SSD Drives be used by the Customer except for the purposes of:
- i. adjudicating the Quotation;
 - ii. the contract (if any) placed with Parker SSD Drives;
 - iii. the operation of the equipment supplied hereunder
nor shall they without written consent of Parker SSD Drives be communicated to third parties save insofar as may be necessary for the permitted purposes.

18. EXPORT CONTRACT. In all export contracts the following provisions shall have effect and shall prevail over any conflicting provisions in the preceding paragraphs hereof:

- i. unless otherwise stated in the contract the full price shall be payable against presentation of shipping documents.
- ii. the Customer shall obtain all import licenses and other necessary authorizations required for the transit of the equipment to and into the country of destination and shall pay all customs and import duties on the equipment wherever levied outside the United States. Failure to obtain any such documents shall not entitle the Customer to cancel the contract.

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19. FORCE MAJEURE.
 - A. Neither party shall be liable for breach of this Agreement if and to the extent that fulfillment of a term has been prevented, hindered or delayed by force majeure as defined herein and in such event the time for fulfillment of the term shall be extended during the operation of force majeure.
 - B. The expression "force majeure" shall mean strikes, industrial disputes and any event or circumstances beyond the immediate control of either party including without prejudice to the generality of the foregoing, riots, civil commotions, war, national or international emergency, destruction or damage due to natural forces, fires, explosions and compliance with orders or requests of any national or local authority.

20. INSOLVENCY, DEFAULT, ETC.
 - A. If Parker SSD Drives receives information from which it appears that the Customer may be unable to pay his debts, Parker SSD Drives shall be entitled to demand security prior to delivery either by payment in cash or by a bank guarantee or otherwise, notwithstanding any terms of payment previously agreed and in the event that the Customer is unable to provide such security Parker SSD Drives shall be entitled to withdraw from the contract without liability
 - B. If the Customer shall make default or commit a breach of contract or of any other of its obligations to Parker SSD Drives or if any distress or execution shall be levied upon the Customer's property or assets or if the Customer shall make or offer any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against it or if the Customer is a limited company and any resolution or petition to wind up the Customer's business (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver of the undertaking, property or assets of any part thereof of the Customer (being a limited company) is appointed, then Parker SSD Drives may without notice:
 - i. suspend or terminate the contract or any unfulfilled part thereof; or
 - ii. stop any equipment in transit; or
 - iii. recover any equipment from the Customer's premises for which payment has not been made in full, whether or not such payment is due.

21. SEVERANCE. These conditions shall apply so far as they shall be held to be lawful and enforceable. If any condition or part of a condition shall be held to be unlawful or unenforceable then these conditions shall be read and construed as if such conditions or part were omitted.

22. FAIR LABOR STANDARDS. Parker SSD Drives represents that with respect to the production of the articles and/or performance of the services covered by this order it has fully complied with the Fair Labor Standards Act or 1938, as amended.

23. LAW. Unless otherwise stated in writing the Contract shall in all respects be construed and interpreted in accordance with the Laws of the State of Virginia.