

M.G.M. Electric Motors USA, Inc.

Terms and Conditions of Sale

1) GENERAL

All orders for products and drawings furnished in connection therewith (hereinafter collectively called "products") manufactured or supplied by - MGM Electric Motors USA Inc. (herein referred as "MGM"), shall be subject exclusively to these terms and conditions of sale. These Terms and Conditions along with the terms and acknowledgments contained in the Quotation, Invoice, and/or Order Confirmation sent to Purchaser from MGM shall comprise the entire sales agreement between the parties, and shall supersede all prior or contemporaneous understandings, agreements, negotiations, representations, warranties, and communications, whether written or oral. Any additional or different Terms or Conditions that may be proposed by the customer are hereby rejected and shall not become a part of the sales agreement. No modifications or additions hereto will be binding unless agreed to in writing by an authorized officer of MGM.

2) QUOTATIONS

Quotations are governed by the terms indicated in the Quote itself. Otherwise, prices are subject to change without prior notice and are subject to the price in effect at the time of shipment.

3) TAXES

Prices do not include Sales, Use, Excise, or other taxes payable to any governmental authority in respect of the sale of MGM's products. The purchaser shall pay the amount of any such taxes or shall reimburse MGM for the amount thereof that MGM may be required to pay.

4) PAYMENTS

Unless otherwise provided, terms of payment are 30 days net from date of invoice for purchasers whose credit is approved. MGM reserves the right to charge interest on any balance outstanding at 2% per month (or fraction thereof) or as MGM shall determine, up to the maximum rate allowed by law, from the date payment is due to the date payment is actually received. Pro rata payments shall become due as shipments, even if partial, are made. If shipments are delayed by or at the request of the purchaser, payment shall become due when MGM is prepared to make the shipment. If the cost to MGM of products is increased by reason of delays caused by the purchaser, such additional cost incurred by MGM shall be paid by the purchaser. MGM may, if it deems itself insecure by reason of the financial condition of purchaser or otherwise, require full or partial payment in advance and as a condition to the continuance of production or shipment on the terms specified herein.

5) ACCEPTANCE

No order or other offer shall be binding upon MGM until accepted in writing by an authorized officer of MGM.

6) CHANGES

MGM will not accept changes in specification unless such changes are requested in writing and agreed to in writing by an authorized officer of MGM and the purchaser agrees to pay, if necessary, in addition to the original purchase price a sum so set by MGM.

7) CANCELLATION

Any order when placed with and accepted by MGM is not subject to cancellation unless agreed to in writing by an authorized officer of MGM. Cancellations are subject to reasonable charges based upon expenses already incurred and commitments made by MGM.

8) DELIVERY

Any indicated date of delivery is approximate only, but MGM will attempt to meet them where possible. MGM shall not be liable for delays in manufacturing or delivery or failure to manufacture or deliver due to any event in the nature of force majeure or any cause beyond MGM's reasonable control. MGM will not be bound by any penalty clause contained in any specification or order submitted by the purchaser unless such clause is agreed to in writing by an authorized officer of MGM. MGM may make partial delivery of products to the Purchaser. Delivery of products shall be made EXW MGM's warehouse in Troy (MI), USA (INCOTERMS Rev. 2020) unless otherwise agreed to in writing by authorized officer of MGM. Each delivery will constitute a separate sale, and Purchaser shall pay for all units delivered whether in whole or in part.

9) PATENTS

MGM shall indemnify and hold harmless the purchaser against all claims or actions that are instituted against the purchaser on the grounds that the purchaser has infringed the patent rights of others by using, reselling, or promoting the sale or resale of MGM's products, provided that MGM shall not be obligated hereunder if:

- a) the Purchaser fails to give MGM prompt notice of any such claim or actions, or
- b) such claims or actions against the purchaser are based wholly or in part on the existence or operation of any complete installation or apparatus incorporating MGM's products as components and which is designed or manufactured by the purchaser or its customers.

10) REGULATORY LAWS OR STANDARDS

MGM makes no representation that its products conform to state or local laws, ordinances, regulations, codes or standards except as may be otherwise agreed to in writing by an authorized officer of MGM.

11) LIMITED WARRANTY

MGM warrants all its products against defects in material and workmanship for a period of one (1) year from the date the product is placed in service to a maximum of eighteen (18) months from date of shipment. Parts subject to replacement due to operational wear and tear, friction materials and traction elements, costs associated with installation, removal, dismantling, or reinstallation are not covered by this Limited Warranty. Notwithstanding the foregoing, any equipment or components of the products not of MGM's own manufacture and/or specified by the purchaser is sold under only such warranty as the maker thereof gives MGM and MGM is able to enforce, but such items are not warranted by MGM in any way.

Use of products above rated capacity, misuse, field alterations of products, damage due to lack of maintenance or improper storage, neglect or accident are also excluded from this Limited Warranty.

This Limited Warranty is effectively provided if:

- (i) The purchaser notifies MGM in writing of the alleged defect immediately after it becomes known to the purchaser, (ii) no alterations, repairs, or services have been performed by the purchaser or third parties on the products without written approval of an authorized officer of MGM, and (iii) MGM can reasonably verify Purchaser's claim about defective products.

MGM's obligation under this Limited Warranty is limited to the repair or replacement FOB MGM's factory or any part or parts found to be defective in material or workmanship.

THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

12) LIMITATION OF DAMAGES

IN NO EVENT MGM SHALL BE LIABLE FOR ANY LOSS OF USE, OPERATION, REVENUE, OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, LIQUIDATED, OR PUNITIVE DAMAGES WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE. THIS APPLIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHERMORE, IN NO EVENT SHALL MGM AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, TORT, OR OTHERWISE EXCEED THE AMOUNTS PAID TO SELLER FOR THE PRODUCTS SOLD HEREUNDER. THIS LIMITATION OF LIABILITY, HOWEVER, SHALL NOT APPLY TO LIABILITY FOR DEATH OR BODILY INJURY RESULTING FROM SELLER'S OWN GROSS NEGLIGENCE OR WILLFUL CONDUCT.

13) ASSIGNMENT

No contract to purchase goods from MGM may be assigned by the purchaser without prior agreement in writing by an authorized officer of MGM.

14) SECURITY INTEREST

Unless and until the products are fully paid for, MGM reserves a security interest in them to secure the unpaid balance of the price and all other obligations of the purchaser to MGM however arising. The purchaser hereby grants MGM a power of attorney to execute and file on behalf of purchaser all necessary financing statements and other similar documents required to protect the security interest granted herein.

15) DEFAULT

If the purchaser defaults in performing any of its obligations to MGM under this agreement, or any other agreements, MGM may, at its option and without incurring any liability thereby, elect to terminate this agreement or to terminate any or all other agreements with the purchaser or to terminate this agreement together with any or all such other agreements. Furthermore, MGM shall have a right to all damages sustained, including loss of profits.

16) INSOLVENCY

If the purchaser shall be insolvent or cease doing business or be the subject of any proceedings under any bankruptcy, insolvency, reorganization or arrangement statute or law, such act shall at the option of MGM, be deemed a default under this agreement, and MGM may elect to cease performing and cancel this agreement with respect to any products not delivered or received prior to the election. All of the foregoing shall be without prejudice to recovery by MGM of damages for work performed and for loss of profits and material and products delivered.

17) INTELLECTUAL PROPERTY, CONFIDENTIAL INFORMATION

Unless specifically granted in writing by a designated Officer of Seller, nothing in this Agreement or related to this transaction in any way grants Buyer any ownership or other interest in any of Seller's Intellectual Property Rights, which Seller shall retain in full. Furthermore, Buyer shall have no right to use or disclose any of Seller's confidential information or trade secrets. Confidentiality or Non-Disclosure Agreements may only be entered into by an authorized representative of Seller.

18) MISCELLANEOUS

The provisions of this agreement shall be governed and construed in accordance with the laws of the State of Delaware. These terms and conditions set forth the entire understanding and agreement of the parties hereto in respect to the subject matter hereof, and all prior undertakings between the parties hereto, together with all representations and obligations of such parties in respect to such subject matter, shall be superseded by and merged into this agreement. No provisions hereof shall be waived, changed, terminated, modified, discharged or rescinded, orally or otherwise, except by a writing signed by the party to be charged by any such waiver, change, termination, modification, discharge, or rescission. No waiver of any breach of any provision of this agreement shall constitute an amendment or modification of this agreement, or any provision thereof. If any provision of this agreement shall be held to be unenforceable or inapplicable in any way or respect, such holding shall not affect the enforceability of any other provision of this agreement under any other circumstances. The provisions of this agreement shall bind and inure to the benefits of the parties hereto and their respective heirs, executors, administrators, successors, and (subject to any restrictions on assignment hereinabove set forth) assigns. That is, all Parties agree to the exclusive personal jurisdiction and proper venue of the state and/or federal courts located within the State of Delaware, USA for any disputes arising out of or related to this Terms and conditions.