

# THE PERKINSON CO., Inc.

## TERMS AND CONDITIONS

The following terms and conditions are an integral part of the offer of The Perkinson Co., Inc. (Perkinson Co.), to sell its products. It is understood and agreed that these terms and conditions are incorporated in any agreement to purchase manufacturer's products and that such terms and conditions are included irrespective of their actual inclusion in customer's purchase order.

**A. Prices and Terms:** Prices stated on the order acknowledgment are firm through the acknowledged ship date. All orders are subject to a minimum charge of \$50.00 irrespective of the list price. Acknowledged prices are, and payments shall be, in US funds. Terms are net thirty (30) days from the date of Perkinson Co. invoice. If, in the opinion of Perkinson Co., the financial condition of customer at any time does not justify extension of new credit or continuance of current credit, Perkinson Co. may require full or partial payment in advance of order acceptance or shipment. The parties agree that all payments still owing after the due date will bear interest at the annual rate of twelve (12%) percent. In addition, customer agrees that any costs incurred by Perkinson Co. in the collection of funds due it, including reasonable attorney fees, shall be paid for by the customer. Perkinson Co. reserves the right at any time to alter or suspend credit or to change credit terms provided herein when, in its sole opinion, the financial condition of the customer so warrants.

**B. Shipment:** All products are shipped FOB Manufacturer's warehouse. No freight allowance is provided unless specifically set forth. In the event an order has been accepted by Perkinson Co. which is conditional to customer inspection before shipment occurs, the products must be inspected and accepted by customer prior to said shipment. In absence of definite shipping instructions by customer, Perkinson Co. reserves the right to ship all products by any public carrier which Perkinson Co. deems satisfactory. All shipments will be made freight collect unless otherwise stated on customer's purchase order.

All statements of prospective time of shipments are estimated. Although Perkinson Co. will utilize its best efforts to ship within the time estimated, the failure to make shipments within such time shall not be deemed a breach by Perkinson Co. Perkinson Co. assumes no responsibility for damages, direct or consequential, arising out of the failure to ship within the time estimated.

**C. Risk of Loss:** The risk of loss or damage in transit is the customer's responsibility. The responsibility for filing claims for loss or damage in transit is the customer's.

**D. Title:** Title shall remain with Perkinson Co. until the goods have been fully paid. It is the intention of the parties to create a purchase money security interest in Perkinson Co. goods shipped under these Terms and Conditions until such goods have been fully paid. Customer agrees to pay any expenses necessary to perfect the security interest of Perkinson Co.

**E. Cancellations, Changes and Deferred Deliveries:** All orders accepted by Perkinson Co. are considered firm. Any cancellations or charges occurring after order acceptance will subject customer to a minimum charge of 15% of the value of the order, plus charges for all costs incurred by Perkinson Co. Should shipment of an order be delayed beyond the original ship date due to customer delay (i.e., shipping instructions, machining instructions, etc.) such order may be subject to price increase and storage charges.

**F. Inspection/Nonconformance:** Customer shall have ten (10) days after delivery to inspect the products delivered or the services performed. Customer shall notify Perkinson Co., in writing, within the aforementioned ten (10) days of any occurrence of

nonconformance. Failure to make timely claim shall constitute acceptance of the equipment or parts and a waiver of any claim by customer.

**G. Taxes:** Acknowledged prices do not include any taxes imposed by law on the manufacture or sale of the products to be furnished, or any component thereof, or any labor involved therein, or on any services rendered by Perkinson Co. The amount of any such applicable tax for which Perkinson Co. shall be liable for payment or collection, shall be separately stated on invoices and paid by customer, unless customer furnished Perkinson Co. with an appropriate tax exemption certification acceptable to Perkinson Co. and the taxing authorities having jurisdiction.

**H. Force Majeure:** The consequences, direct or indirect, of labor troubles, fires, accidents, floods, storms, hostilities, shortage of transportation, failure, suspension or curtailment of production due to shortage of raw materials and supplies or other economic factors, Government acts or requirements and any and all like or different causes beyond the control of Perkinson Co., shall excuse performance by Perkinson Co. to the extent by which performance is prevented thereby. Perkinson Co. may, during any period of shortage due to any of said causes, prorate its supply of such goods among all its customers in such manner as may be deemed equitable in the sole judgment of Perkinson Co.

**I. Warranty:** Perkinson Co. warrants its products for a period of one (1) year after date of shipment from defects in materials and/or workmanship, as determined by Perkinson Co. Perkinson Co.'s obligations under this warranty are expressly limited to repayment of the purchase price, repair or replace Perkinson Co.'s option. This warranty remains in effect only to the extent manufacturer's products are properly stored, installed and utilized properly for the use for which they were manufactured. Customer shall return materials to the factory location designated by Perkinson Co. and customer shall prepay all return freight charges. Prior permission must be obtained from Perkinson Co. for any returns. THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO QUALITY MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**J. Liability:** Perkinson Co. will not be held responsible or liable for any damages resulting from improper storage or handling of shipments after leaving manufacturer's warehouse.

Service or repairs performed by anyone except Perkinson Co. Authorized Service will not be the responsibility of Perkinson Co., nor will any expenses be assumed by Perkinson Co.

Under no circumstances will Perkinson Co. be liable for any damages resulting from the failure or improper functioning of any of our products whether the cause is direct, indirect, consequential, contingent or incidental.

**K. Applicable Law:** Any contracts executed under Perkinson Co.'s Terms and Conditions shall be governed by and construed in accordance with the Uniform Commercial Code as adopted in the State of North Carolina.

These Terms and Conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors.