



Eaton Corporation Terms and Conditions of Sale

1) PRICES. All prices are firm for equipment ordered within thirty (30) days from date of quote, otherwise prices may escalate. Prices stated do not include installation, freight, and handling charges unless these items are specifically listed and priced. If Eaton Corporation ("Seller") is required to pay or collect any tax, excise, duty or levy, an additional charge will be made and paid by Purchaser unless Seller is furnished with a proper exemption certificate. Prices stated are F.O.B. factory (unless otherwise stated) and title and risk of loss to each article sold by Seller to Purchaser shall pass to Purchaser upon delivery at the F.O.B. point.

2) PAYMENT. Purchaser will be invoiced on date of shipment for all deliverable items of hardware, software, and services. Applicable taxes and/or freight charges will be billed as a separate line item. Payment of these invoices is due within thirty (30) days of the invoice date. Payment to Seller shall not be contingent on third party payments to Purchaser. Any payment not made when due shall be subject to an interest charge at the maximum rate permitted by law. Additionally, if any payment is not made when due, Seller reserves the right to refuse to provide any further services until such payment and the applicable interest charge have been received.

3) CANCELLATION/TERMINATION/CHANGE. Purchaser may not cancel or terminate its purchase order without prior written notice to Seller and upon payment of cancellation charges which shall take into account, among other things, expenses already incurred and commitments made by Seller. Cancellation charges are as follows: (a) for standard items, cancellation between 61-90 days prior to shipment, 25% of the total invoice; between 31-60 days prior to shipment, 50% of the total invoice; between 0-30 days prior to shipment, or after order has shipped, 100% of the total invoice; (b) 100% of total invoice on all custom aspects of an order; (c) 100% of the total invoice on all drop ship items (e.g. batteries, racks, MBPs, PDUs etc.). Changes made to an order may be subject to increase or decrease in purchase order amount, change order charges, and changes in schedule date.

4) SHIPMENT. Shipment estimates are after receipt of a purchase order at the factory. If drawings are required for approval before Seller is authorized to proceed with manufacture, then shipment estimates are after receipt of written approval to proceed. If Purchaser cannot accept delivery of equipment, it will arrange for storage. Seller shall not be liable or responsible for any damages or loss for delay or default in delivery due to any cause beyond Seller's reasonable control, nor shall Purchaser cancel or have the right to cancel its purchase order because of delays or default in delivery due to such causes.

5) LIMITED WARRANTY. Seller warrants the equipment purchased hereunder in accordance with the terms of the limited warranty applicable hereto ("Limited Warranty") and provided separately to Purchaser.

6) CONDITIONS OF SALE. The quote, Limited Warranty, and Seller's acknowledgement of Purchaser's order shall supersede all other documents and shall constitute the entire agreement between the Parties. No modification of this Agreement whether by Purchaser in its purchase order or otherwise, shall have effect or be binding upon Seller.

In the furnishing of equipment, warranty or any other services of any type, Seller assumes no responsibility for any damage or injury to any persons or property except for such damages or injury that may be held to result solely and directly from or out of the negligent acts, errors, omissions or willful misconduct by Seller, its agents or employees in the performance of its obligations under this Agreement. The remedies of Purchaser set forth in this Agreement are exclusive and are its sole remedies for any failure of Seller to comply with its obligations hereunder. Notwithstanding anything in this Agreement or otherwise to the contrary, in no event shall the Parties, or their respective officers, directors, employees or agents be liable to the other for damage to property or equipment, other than to those products sold hereunder, or any incidental, indirect, special or consequential damages, such as, but not limited to, delay damages, lost profits or revenue, lost data, loss of use or lost opportunity damages, resulting from or in connection with any claim or cause of action, whether brought in contract or in tort, even if the Parties knew or should have known of the possibility of such damages. The total cumulative liability of Seller arising from or related to this Agreement whether the claims are based in contract, in tort (including negligence or strict liability) or otherwise, shall not exceed the price of the product or services on which such liability is based. **THIS AGREEMENT AND LIMITED WARRANTY MUST BE INCLUDED IN ANY PURCHASE ORDER ISSUED BY PURCHASER, BY REFERENCE TO QUOTE NUMBER, IN ORDER FOR THE ORDER TO BE ACCEPTED BY SELLER AND FOR THE WARRANTY TO APPLY.**