

## Standard Terms and Conditions

All sales or purchases of material or equipment by Schaedler Yesco Distribution, Inc. ("Schaedler Yesco") are expressly conditioned upon the terms and conditions set forth below. Any additional or different terms or conditions set forth in any purchase order of the Buyer or in any similar such communication are hereby objected to by Schaedler Yesco and shall not be binding or effective unless expressly assented to in writing by an authorized representative of Schaedler Yesco. The term "Buyer" as used herein shall also apply to any Lessee of Schaedler Yesco.

### Prices and Terms

Unless otherwise stated, all prices by Schaedler Yesco are subject to change without notice. Prices do not include sales, use, excise, value added or similar taxes and, where applicable, such taxes shall be as a separate item and paid by the Buyer. Unless otherwise noted, all sales are made f.o.b. point of shipment; in all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon the Buyer. Extra labor or mechanical facilities required to unload shall be provided by Buyer without any cost to Schaedler Yesco .

### Delivery

Quoted shipment or delivery dates are estimates only. Schaedler Yesco shall not be liable for failure to deliver or for delays in delivery or performance due to causes beyond its reasonable control, acts of God, acts of Buyer, acts of civil or military authority, any legislative, administrative, or executive law, order or requisition of any government, fires, strikes or other labor difficulties, riots and other civil disturbances, delays in its usual source of supply, delays of carrier, any other commercial impracticability or other unavailable contingencies beyond the Schaedler Yesco's control. In no case shall Schaedler Yesco be liable for any consequential or special damages arising from any delay in delivery.

### Payment

If, in the judgment of Schaedler Yesco, the financial condition of the Buyer at the time of manufacture or shipment does not justify the terms of payment specified. Schaedler Yesco reserves the right to require full or partial payment before manufacture or shipment and to suspend any further performance until such payment has been received.

### Delay in Payment

If payment of Schaedler Yesco's invoice is made after the net due date, Schaedler Yesco reserves the right to charge interest at the rate of 1.5% per month on the unpaid balance.

### Leased Equipment

Buyer agrees to return any leased equipment to Schaedler Yesco in the same condition as which it was

received, allowing for normal wear from responsible use. Lessee shall not sublease any equipment. In the event of damage or destruction of the leased equipment, Buyer shall be responsible for the full replacement cost of such equipment. All equipment is used at Buyer's risk.

### **Buyer's Requirements**

Material and equipment are based on Schaedler Yesco's interpretation of Buyer's requirements and are subject to verification by Buyer or its representatives.

### **Returns**

Unless otherwise stated, Buyer may return unused material or equipment in its original packaging within ninety (90) days of purchase.

### **Warranties**

Material and equipment distributed by Schaedler Yesco are warranted only to the extent of the manufacturer's warranties. Except as to title, Schaedler Yesco gives NO WARRANTIES, WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE relating to the material or equipment.

### **Limitation of Liability**

Schaedler Yesco's liability on any claim for loss or damage arising out of this contract or from the performance or breach thereof or connected with the supplying of material or equipment hereunder, or its sale, resale, operation or use, whether based on warranty, contract, negligence or other grounds shall not exceed the purchase price. Schaedler Yesco shall not in any event be liable for incidental, liquidated, special or consequential damages including, but not limited to, loss of profits or revenue, liquidated damages, loss of use of the product or any associated product, cost of capital, cost of substitute products, facilities or services, downtime costs, or claims of customers of the Buyer for such damages.

### **Cancellation**

Buyer may cancel any order upon the written consent of Schaedler Yesco and based upon payment to Schaedler Yesco of reasonable and proper cancellation charges necessary to cover labor expended, material procured and reasonable overhead expenses related thereto.

### **Acceptance**

Material and equipment must not be returned without the advance written consent of Schaedler Yesco. Goods shall be deemed accepted upon receipt. Buyer has a duty to inspect all materials upon delivery and failure to object in writing within thirty (30) days of delivery shall constitute an irrevocable acceptance of the goods and a waiver of any and all claims relating to those goods. Buyer agrees that failure to object to an invoice, in writing, within thirty (30) days from the date of the invoice shall constitute a waiver of any and all defenses to payment of the amounts reflected on the invoice, including interest charges, and that such amounts shall constitute an account stated against Buyer.

### **Termination**

Schaedler Yesco reserves the right to terminate any contract or order upon notice to Buyer and without liability to Schaedler Yesco.

**Indemnification**

To the fullest extent permitted by law, Buyer agrees to indemnify, hold harmless and defend Schaedler Yesco, its shareholders, employees, representatives, successors and assignees (the "Indemnified Parties") from and against any and all liability for loss, damage, attorneys' fees or expense which the Indemnified Parties may suffer or for which the Indemnified Parties may be held liable by reason of injury (including death) to any person (including Buyer's employees) or damage to any property arising out of or in any manner connected with performance of the obligations of Buyer pursuant to these Terms, whether or not due, in whole or in part, to any act, omission, negligence or strict liability of the Indemnified Parties, or any of their representatives, employees, subcontractors or third parties, whether known or unknown to Schaedler Yesco and/or Buyer. Buyer may not rely on any statutory protection pursuant to any workers' compensation law as a defense to any of its indemnification obligations hereunder.

**One-Year Limitation**

Any and all claims brought by Buyer against Schaedler Yesco shall be filed in the state and federal courts having jurisdiction over Dauphin County, Pennsylvania within six (6) months after the date of shipment or it shall be deemed forever waived.

**Assignment**

Buyer may not assign any contract or order without the advance written consent of Schaedler Yesco. In no event shall any permitted assignment relieve Buyer of its payment or other obligations, but Schaedler Yesco reserves the right to seek payment and recovery from any lawful assignee or person or entity which has assumed the assets or business of Buyer.

**Hazardous Business**

Material and equipment distributed by Schaedler Yesco has been designed and manufactured for use in standard commercial, industrial and residential applications. If the material or equipment is to be applied in any location which might be of a hazardous nature, such as critical applications where a failure of a single component could cause substantial harm to persons or property, Schaedler Yesco disclaims all responsibility. Any questions should be referred to the manufacturer through Buyer's local Schaedler Yesco office.

**Intellectual Property and Indemnification**

Schaedler Yesco makes no warranty or representation with regard to any patent, trademark, copyright, or trade secret, relating to or claimed to arise from any product sold to Buyer. Schaedler Yesco will not and does not indemnify or otherwise hold harmless Buyer from any claim of misappropriation or infringement of any patent, trademark, trade dress, trade secret, copyright or other rights relating to any merchandise. Buyer agrees that Buyer will not make any such claim, or seek any such indemnification, and that such a claim or demand by Buyer constitutes a breach of these terms and conditions, and that Buyer shall pay all attorney fees and other court costs incurred by Schaedler Yesco in defending against any such claim or demand, whether or not a legal action is commenced or filed.

**Inapplicability of Course of Dealing; Course of Performance**

No course of prior dealings or conduct between Schaedler Yesco and Buyer and no usage of trade shall be relevant to impose any liability on Schaedler Yesco or to interpret or supplement any term used herein.

**Waiver**

The failure of Schaedler Yesco to insist upon the performance of any of the terms or conditions of this contract or to exercise any right hereunder shall not be deemed to be a waiver of such terms, conditions or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right under this contract.

**General Terms**

Any of the terms and provisions of Buyer's order which are inconsistent with the terms and provisions hereof shall not be binding on Schaedler Yesco and shall not be considered applicable to the sale or shipment of the merchandise referred to herein. Unless Buyer shall notify Schaedler Yesco in writing to the contrary as soon as practicable after receipt of this quotation by Buyer, acceptance of the terms and conditions hereof by Buyer shall be indicated, and, in the absence of such notification, the sale and shipment by Schaedler Yesco of the merchandise covered hereby shall be conclusively deemed to be subject to the terms and conditions herein. A standard form purchase order or similar document shall not constitute written objection to the terms herein. Rather, a written objection must be separately stated, and addressed to "Schaedler Yesco, 3982 Paxton Street, Harrisburg, Pennsylvania 17111," and must state with particularity those specific terms to which Buyer objects. In the event this written notice is not timely sent, before shipment or delivery of the product, then Buyer waives any and all rights to object to the terms herein.

**Attorney's Fees, Jurisdiction, and Venue**

Buyer agrees that making any purchases from Schaedler Yesco constitutes doing business in the Commonwealth of Pennsylvania and that Buyer consents to the personal jurisdiction of the state and federal courts in Pennsylvania. Buyer agrees that the venue to resolve any and all disputes with Schaedler Yesco shall exclusively lie in the state or federal courts situated in Dauphin County, Pennsylvania. Buyer agrees that in the event of any legal action brought by or against Schaedler Yesco, the nonprevailing party shall pay to the prevailing party all costs and expenses incurred in connection with such action, including but not limited to attorney's fees, lien fees, court costs and any other costs of litigation or collection proceedings.