

Standard Terms & Conditions

1. **PRICES:** Prices do not include overtime premium costs and are subject to increase for any overtime required and authorized by the Purchaser. All prices exclude inspections, sales, use, license, excise, and other taxes in respect of manufacture, sale or delivery, and export or import duties, all of which shall be paid by Purchaser unless a proper exemption certificate is furnished.
2. **TERMS OF PAYMENT:** Unless otherwise specified, and subject to credit approval:
 - a) Progress payment schedule on Induction Heating Power Supplies or Systems shall be as follows:
 1. 30% due with purchase order.
 2. 70% balance due prior to shipment.
 - b) Payment on export shipments shall be by wire transfer in US funds directed to Eldec Induction USA, Inc. (hereinafter referred to as "Eldec INDUCTION USA") account at the Fifth Third Bank, Auburn Hills, Michigan 48326, or to another bank satisfactory to Seller for Euro currency.
 - c) Eldec INDUCTION USA reserves the right to add a finance charge to all past due balances at a rate of 2% per month, or any fraction thereof.
3. **DELIVERY AND DELAYS:** Delivery will be shipment, Ex-Works, Eldec INDUCTION USA plant. Delivery / shipment dates are approximate and subject to confirmation. Eldec INDUCTION USA shall not be responsible for reasonable or excusable delays, nor shall the Purchaser refuse to accept delivery because of any such delays. "Excusable delays" include, without limitations, delays resulting from accidents, acts of God, strikes, fire, governmental controls, inability to obtain materials from suppliers, failure of materials correctly ordered by Eldec INDUCTION USA to meet specifications, or other causes beyond Eldec INDUCTION USA' control. "Reasonable delays" include, without limitations, delays to which the Purchaser, when notified, makes no objections. In the event of Eldec INDUCTION USA' inability, for any reason, to supply the total demands for the equipment to be furnished hereunder, Eldec INDUCTION USA may allocate its available supply of such equipment among deem fair and practical without any liability for any failure of performance which may result therein. If the Purchaser delays shipment, the equipment will be invoiced and payments are to be made as specified and the equipment shall be held at the Purchaser's risk and subject to reasonable storage charges.
4. **CANCELLATION:** Orders will not be subject to cancellation or modification, either in whole or in part, without Eldec INDUCTION USA' consent, and then only under terms that will reimburse Eldec INDUCTION USA for all applicable costs incurred by it, including costs of purchased materials, engineering costs and reasonable allowance for loss of opportunity and income.

Actual project costs up to the date of cancellation are to be paid by the customer, plus 15% of the total contract value as a compensation for production readjustment costs and loss of project income.

5. PRODUCTION ESTIMATES: Estimates of the production, which the equipment sold, by Eldec INDUCTION USA is capable of, is based on preliminary tests conducted in Eldec INDUCTION USA' laboratories and/or on calculations based on information furnished by Purchaser, and are estimates only and are not guaranteed by Eldec INDUCTION USA.

6. WARRANTIES: Eldec INDUCTION USA warrants to the original Purchaser that the equipment of Eldec INDUCTION USA' own manufacture to be supplied hereunder, will for a period of twelve (12) months from the date of installation or (18) from shipping date, whichever comes first, conform to the specifications mutually agreed upon by Eldec INDUCTION USA and the Purchaser, reserving to Eldec INDUCTION USA the right, without prior notice, to change specifications and dimensions listed in its bulletins and other descriptive material, as designs are altered and improved; that such equipment will for such period be free from defects in material and workmanship under normal and proper operating conditions; and that such equipment will be delivered free from any lawful security interest or other lien or encumbrance known to Eldec INDUCTION USA, except security interests or other liens or encumbrances arising hereunder.
The obligation of Eldec INDUCTION USA and the Purchaser's sole and exclusive remedy hereunder, shall be limited at Eldec INDUCTION USA' option:
 - a) to the replacement or repair of any equipment or parts thereof f.o.b. Eldec INDUCTION USA' Plant;

 - b) should the equipment or parts thereof be determined by Eldec INDUCTION USA to be so defective, however, as to preclude, the remedying of warranted defects by replacement or repair, the Purchaser's sole and exclusive remedy shall then be the refund of the purchased price;

 - c) Notwithstanding the foregoing, Eldec INDUCTION USA shall have no obligation hereunder if the equipment becomes defective in whole or in part as a result of installation or repairs not made by Eldec INDUCTION USA, or as a result of removal, improper use, operation above rated capacities, or misapplication thereof after it has been delivered to the Purchaser.

Equipment, parts and accessories made by other manufacturers are warranted only to the extent of the original manufacturer's warranty to Eldec INDUCTION USA.

Eldec INDUCTION USA warranty may be modified by specific terms in the Quotation or in Attachment "A."

Purchaser agrees to indemnify Eldec INDUCTION USA against all claims arising out of, or resulting from the operation or use of the equipment.

EXCEPT AS SET FORTH HEREIN, AND EXCEPT AS TO TITLE, IT IS EXPRESSLY AGREED (A) THAT THERE IS NO WARRANTY OF MERCHANTABILITY, NOR OTHER WARRANTY, EXPRESSED, IMPLIED, OR STATUTORY, NOR ANY AFFIRMATION OF FACT, OR PROMISES, BY Eldec INDUCTION USA WITH REFERENCE TO THE EQUIPMENT OR PARTS THEREOF, OR OTHERWISE, WHICH EXTENDS BEYOND THE SPECIFICATIONS MUTUALLY AGREED UPON BY Eldec INDUCTION USA AND THE PURCHASER AND (B) THAT THE PURCHASER ACKNOWLEDGES THAT IT IS PURCHASING THE EQUIPMENT SOLELY ON THE BASIS OF THE COMMITMENTS OF Eldec INDUCTION USA EXPRESSLY SET FORTH HERIN.

7. **LIMITATION OF LIABILITY:** In no event shall Eldec INDUCTION USA be liable for anticipated Purchaser's profits or for damages on account of negligence, or for incidental or consequential damages.
Further, in no event shall Eldec INDUCTION USA be liable to Purchaser for any amount exceeding the net amount of this quotation. This limitation is not to be construed as liquidated damages. Any liability by Eldec INDUCTION USA to Purchaser is waived unless Eldec INDUCTION USA is given notice in writing within one (1) year after final payment.
8. **TITLE AND REMEDIES:** Shipments and deliveries shall be subject to approval of Eldec INDUCTION USA' Credit Department. If Purchaser fails to fulfill the terms of payment, Eldec INDUCTION USA may defer further shipments, or may, at its option, cancel the unshipped balance. Eldec INDUCTION USA reserves the right, previous to making any shipments, to require from Purchaser satisfactory security for performance of Purchaser's obligations.
9. **GENERAL:** Notice given to Eldec INDUCTION USA and the Purchaser shall be given to the respective addresses herein set forth in the Quotation or Acceptance of Order to which these Standard Terms and Conditions are attached and made a part. Any action resulting from any breach on the part of Eldec INDUCTION USA as to the equipment or the parts delivered hereunder must be commenced within one (1) year after the cause of action has accrued. The rights and duties of the parties hereto shall be determined by the laws of the State of Michigan, and to that

end this agreement shall be construed and considered as a contract and to be performed in the state of Michigan.

10. PATENT INDEMNITY: Eldec INDUCTION USA agrees, at its own expense, to defend any suit against Purchaser so far as based on a claim that the Purchaser by reason of the use of Eldec INDUCTION USA' equipment for the particular use or application for which said equipment is specifically designed and sold by Eldec INDUCTION USA, infringes any United States Patent other than a product patent on an article manufactured by the use of said equipment, provided that Eldec INDUCTION USA is notified promptly in writing of any such claim or suit and is permitted to assume the full direction and control of the defense against such claim and of any suit brought thereon and given authority, information and assistance by the Purchaser (at Eldec INDUCTION USA' expense) for such defense. In the event any judgment against the Purchaser is rendered and becomes final (beyond right of appeal), Eldec INDUCTION USA agrees to pay all damages and costs thereby awarded against the Purchaser up to the purchase price of said equipment. If, subject to the above limitations, said equipment, or any part thereof, shall be finally held in such suit to constitute an infringement, Eldec INDUCTION USA shall have the right to continue using said equipment with non-infringement of such patent, (b) to replace said equipment with non-infringing equipment accomplishing the same purposes as the replaced equipment, (c) to modify said equipment, and refund to the Purchaser the purchase price thereof.
11. SALES CATALOGS: Handbooks and catalogs supply general information and are not considered offers to sell on the part of Eldec INDUCTION USA. Orders are accepted by Eldec INDUCTION USA subject to Eldec INDUCTION USA' terms, conditions, and price provision in effect at the time the order is accepted.
12. GOVERNMENT SAFETY STANDARDS: Eldec INDUCTION USA makes no representation of compliance with the regulations or standards issued under the Occupational Safety and Health Act of 1970 of any other safety and health statues, regulations or ordinances which may be applicable to these goods, expect as otherwise specifically agreed by Eldec INDUCTION USA in writing.
13. ADDITIONAL TERMS: The specifications set forth in the attached schedule entitled "Equipment Specifications," and the terms and conditions on Attachment "A," or as enumerated in the quotation, are incorporated herein and are a part of this contract.