

## Terms & Conditions of Sale

Conditions shall be valid and enforceable unless specifically agreed to in writing by MIDLAND MANUFACTURING CORP, hereinafter referred to as "Midland."

### 1. Quotations:

Quotations expire automatically 60 days from the date on which the proposal was made, unless terminated by written notice within this period.

### 2. Prices:

All prices quoted are net unless a discount is shown.

### 3. Terms:

Domestic Net 30 days, International Irrevocable and confirmed Letter of Credit through a prime U.S. bank unless a line of credit has been established with Midland. Letter of credit must conform to these terms and condition with no additions or omissions of terms and conditions.

### 4. F.O.B.:

All shipments are F.O.B. Skokie, Illinois. Freight is entirely the responsibility of customer Buyer, although upon Buyer's request we will prepay freight charges and add them to the invoice.

### 5. Acceptance of Orders:

All orders are subject to acceptance by Midland. No terms or conditions appearing in a Buyer's order form that are in variance or conflict with these terms and conditions shall be binding upon Midland, and such terms or conditions in variance or conflict with the terms and conditions of the form shall be deemed waived by the Buyer. If there are material variances or conflicts between the terms and conditions of this form and the terms and conditions contained in a Buyer's order form, this form shall be deemed a counter-offer to the Buyer's order form, which shall be deemed accepted by the Buyer.

### 6. Taxes:

Taxes, duties or levies applicable to the sale will be added to the invoice unless a Certificate of Exemption from taxes is submitted to Midland prior to the shipment of goods.

### 7. Shipment or Delivery Schedules:

Delivery schedules are subject to normal production lead times, material availability, labor conditions and force majeure Midland shall not be liable in any way for failure or delay in making deliveries. Midland reserves the right to allocate its supply of goods among its customers in any manner it desires in its sole discretion in the event of a shortage of goods. Midland shall not be required to reimburse a buyer for any quantities withheld, and buyer shall not be entitled to any damages, as a result of an allocation, limitation or termination.

### 8. Cancellation and Return Policy:

Midland has implemented a new policy for all order cancellations and material returns for credit effective January 4, 2016. The new policies are outlined below. Please contact your sales representative with any questions regarding the new policy.

#### Material Returns for Credit:

- All material returned will be subject to inspection prior to any credit being issued.
- All material must be returned in as new condition.
- All returns for credit must have been purchased within the last 12 months. Any products older than 12 months will not be accepted for credit.
- Standard restocking charges are as follows:
  - o Parts – 15%
  - o Assemblies – 25% - 50%
  - o Custom/Specialty items will be evaluated on a case by case basis.

o No credit will be issued for the following:

- Gauge Rods
- Gauging Guide Tubes
- Gauging Stand Offs
- Opened packages of O-rings & Seals

**Order Cancellations:**

- Any order cancelled 30 days after placement will be subject to a 15% cancellation charge.
- Orders scheduled to ship within 10 days will be subject to a 25% - 50% cancellation charge depending on product and production status of the order.
- Cancellation charges for Custom/Specialty items will be evaluated on a case by case basis.

**9. Test Certificates:**

Midland will provide test certificates for each Safety Relief Valve. Certificates to comply with other codes or standards for other products are also available at additional cost.

**10. Design:**

Midland reserves the right to make changes in the design of its equipment without notice, without incurring any obligations to furnish or install such changes and modifications on products previously or subsequently sold.

**11. Warranty:**

Midland warrants its products to the original purchaser to be free of defects in material and workmanship for a period of one (1) year from the date of invoice. Note that this warranty does not guarantee that Midland products will last one year, only that they are free of defects for one (1) year. Midland warrants its products only where the equipment is installed in strict accordance with its written instructions, and used for the specific purpose for which they were designed.

MIDLAND MAKES NO OTHER REPRESENTATIONS OF WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO PLACE AN ORDER OR JUST ASK QUESTIONS, CALL (847) 677-0333 OR FAX (847) 677-0138.

In the event of a product becomes defective, written notification of such product failure must be made within one (1) year of the invoice date applicable to the defective product. Midland must receive such notification within thirty (30) days of the discovery of the failure, or the otherwise applicable warranty shall be null and void. The liability of Midland under this warranty shall be limited to the replacement of defective product or refund of the original purchase price paid, at Midland's option. Any other claim for damages or otherwise, including any claim by a Buyer for consequential damages, is hereby expressly waived by the Buyer.

**12. Limitation of Liabilities:**

The sole and exclusive remedies of the buyer shall be those specifically set forth herein. Midland's maximum liability for any and all claims arising directly or indirectly from the performance of its obligation hereunder, whether resulting from Midland's negligence or otherwise, shall not exceed the aggregate purchase price of the goods purchased hereunder.

UNDER NO CIRCUMSTANCES SHALL MIDLAND BE LIABLE TO THE BUYER OR ANY THIRD PARTY FOR LOSS OF BUSINESS OR PROFIT OR ANY OTHER ECONOMIC LOSS, OR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIMS BY ANY THIRD PARTY.

**13. Security Interest and Default:**

Until Midland receives full payment of the purchase prices for any merchandise ordered by the Buyer, Midland shall retain a security interest in the merchandise and may, at its option and without any further agreement or signature by the Buyer, file evidence of such security interest in accordance with the provisions of the Uniform Commercial Code. So long as Midland retains a security interest in such merchandise, the Buyer shall keep the merchandise in good condition and free from any other liens or encumbrances. Midland may avail itself of all of the remedies afforded to it by the Uniform Commercial Code for the breach of a contract for the sale of goods and for the enforcement of the security interest herein granted by the Buyer to Midland.

**14. Default or Insolvency of Buyer:**

If the Buyer defaults in any of its obligations to Midland, or suffers any execution upon its property, or becomes insolvent, admits in writing its inability to pay its debts generally as they become due, files a petition in bankruptcy or a petition to take advantage of any insolvency statute, makes an assignment for the benefit of creditors, makes a transfer in fraud of creditors, applies for or consents to the appointment of a receiver for itself or for the whole or any substantial part of its property, or files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereinafter amended, or any other applicable law or statute of the United States or any state thereof, then Midland shall have the right, but not the obligation (without prejudice to any other remedies), to cancel any uncompleted order or to withhold or to suspend any delivery obligation to Buyer Force Majeure; Midland shall not be liable for any nonperformance or delay in performance caused by any act beyond its reasonable control, including, but not limited to, delay or damage directly or indirectly caused by acts or omissions of third parties, unavailability of supplies, equipment failure, war, strikes, lockouts, fire, flood or any other Act of God, any law, regulation, ordinance or other act or order of any court, government or governmental agency.

**15. Assignment:**

Buyer may not assign any of its rights or duties hereunder or any portion hereof to any third party.

**16. Dispute Resolutions:**

The parties agree that they will settle any dispute, controversy, or claim arising out of or relating to these terms and conditions which they are unable to settle through direct negotiations by mediation administered by a mutually agreeable mediator. If mediation is unsuccessful, the parties agree that they will submit such dispute, controversy, or claim to binding arbitration under a single arbitrator to be conducted under the rules of the American Arbitration Association (AAA). Midland and Buyer will select the arbitrator from a panel of persons knowledgeable in design and manufacturing of products similar to the Products sold by Midland. The arbitrator shall have the authority to award final and binding permanent relief based upon these terms and conditions and applicable Illinois law. Midland and Buyer will pay their own attorney's fees associated with the arbitration and will pay other costs and expenses as the rules of the AAA provide.

**17. Savings:**

If any provisions of these terms shall be prohibited by or be invalid under applicable law, such provisions shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of these terms and conditions.

Effective: January 4, 2016