

**TERMS AND CONDITIONS OF SALE**  
**INJECTEC, Inc.**  
INJECTEC® is a registered service mark of Injectec, Inc  
April 2006

1. Offer, Governing Provisions and Cancellation. This writing constitutes an offer or counter-offer by Injectec, Inc. ("Seller") to sell the products described herein in accordance with these terms and conditions, is not an acceptance of any offer made by buyer, and is expressly conditioned upon assent to these terms and conditions. Seller hereby objects to any additional or different terms contained in any purchase order, acknowledgment or other communication previously or hereafter provided by buyer to Seller. No order may be cancelled or altered by buyer except upon terms and conditions acceptable to Seller, as evidenced by Seller's written consent. In the event of such an approved cancellation by buyer, Seller shall be entitled to payment of the full price, less the amount of any expenses saved by Seller by reason of the cancellation.

2. Prices and Payment. All prices are subject to change upon notice; and the price of products on order but unshipped will be adjusted to the price in effect at the time of shipment. Payment is due 30 days from Seller's invoice date, unless Seller requires payment in advance. Interest will be charged at the rate of 18% per year (but not more than the highest rate permitted by applicable law) on accounts more than 30 days past due.

3. Taxes and Other Charges. Any manufacturer's tax, occupation tax, use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee, interest or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Seller and buyer shall be paid by buyer in addition to the prices quoted or invoiced. In the event Seller is required to pay any such tax, fee, interest or charge, buyer shall reimburse Seller therefor.

4. Delivery, Claims and Force Majeure. Delivery of products to a carrier at Seller's plant or other loading point shall constitute delivery to buyer; and regardless of shipping terms or freight payment, buyer shall bear all risk of loss or damage in transit. Seller reserves the right to make delivery in installments, unless otherwise expressly stipulated herein; all such installments to be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve buyer of its obligations to accept remaining deliveries.

Claims for shortages or other errors in delivery must be made in writing to Seller within 10 days after receipt of shipment and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by buyer. Claims for loss or damage to goods in transit should be made to the carrier and not to Seller.

All delivery dates are approximate. Seller shall not be liable for any damage as a result of any delay or failure to deliver due to any cause beyond Seller's reasonable control, including, without limitation, any act of God, act of buyer, embargo or other governmental act, act of terrorism, regulation or request, fire, accident, strike, slowdown, war, riot, delay in transportation, or inability to obtain necessary labor, materials or manufacturing facilities. In the event of any such delay the date of delivery shall be extended for a period equal to the time lost because of the delay. Buyer's exclusive remedy for other delays and for Seller's inability to deliver for any reason shall be rescission of this agreement.

5. Storage. If the products are not shipped within 15 days after notification to buyer that they are ready for shipping, for any reason beyond Seller's reasonable control, including buyer's failure to give shipping instructions, Seller may store such products at buyer's risk in a warehouse or yard or upon Seller's premises, and buyer shall pay all handling, transportation and storage costs at the prevailing commercial rates upon submission of invoices therefor.

6. Warranties. Seller warrants products manufactured by it and supplied hereunder to be free from defects in materials and workmanship appearing within two months from date of shipment. If within such period any such product shall be proved to Seller's satisfaction to be defective, such product shall be repaired, such product shall be replaced or, at Seller's option, Seller shall refund the purchase price of such product. Such repair, replacement or refund shall be Seller's sole obligation and buyer's exclusive remedy hereunder and shall be conditioned upon Seller's receiving written notice of any alleged defect within 10 days after its discovery and, at Seller's option, return of such product to Seller, f.o.b. its factory. **THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED; AND SELLER EXPRESSLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**

Any description of the products, whether in writing or made orally by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with buyer's order are for the sole purpose of identifying the products and shall not be construed as an express warranty.

7. Returns. Products may be returned to Seller only when buyer obtains Seller's advance written permission. Returned products must be securely packaged to reach Seller without damage; and any cost Seller incurs to put products in marketable condition will be charged to buyer.

8. Consequential Damages and Other Liability; Indemnity. Except as otherwise agreed in writing, Seller's liability with respect to the products and/or services sold hereunder shall be limited to the warranty provided in section 7 hereof, and, with respect to other performance of this contract, shall be limited to the contract price. **SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHER THEORIES OF LAW, WITH RESPECT TO PRODUCTS SOLD BY SELLER, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO.** Without limiting the generality of the foregoing, Seller specifically disclaims any liability for property or personal injury damages, penalties, special or punitive damages, damages for lost profits or revenues, loss of use of products or any associated equipment, cost of capital, cost of substitute products, facilities or services, down-time, shut-down or slow-down costs, or for any other types of economic loss, or for claims of buyer's customers or any third party for any such damages. **SELLER SHALL NOT BE LIABLE FOR AND DISCLAIMS ALL CONSEQUENTIAL, INCIDENTAL AND CONTINGENT DAMAGES WHATSOEVER.**

Buyer shall indemnify Seller against any and all losses, liabilities, damages and expenses (including, without limitation, attorneys' fees and other costs of defending any action) which Seller may incur as a result of any claim by buyer or others arising out of or in connection with the products and/or services sold hereunder and based on product or service defects not proven to have been caused solely by Seller's negligence.

9. Technical Information. Any sketches, models or samples submitted by Seller shall remain the property of Seller, and shall be treated as confidential information unless Seller has in writing indicated a contrary intent. No use or disclosure of such sketches, models and samples, or any design or production techniques revealed thereby, shall be made without the express written consent of Seller.

10. Buyer's Property. Any property of buyer placed in Seller's custody for performance of this contract is not covered by insurance, and no risk is assumed by Seller in the event of loss or damage to such property by fire, water, burglary, theft, civil disorder or any accident beyond the reasonable control of Seller.

11. Security Agreement. Buyer hereby grants Seller a security interest in the products described herein, in order to secure any present, past or future obligations of buyer to Seller. Buyer agrees to assist Seller, if so requested, in taking any action to perfect and protect Seller's security interest. In the event of a default by buyer, Seller shall be entitled to any of the rights and remedies provided by law, included not limited to repossession of the products; buyer agrees to reimburse collection costs, legal fees and court costs incurred by Seller in connection therewith.

12. Tools. Any dies, jigs or tools which Seller manufactures or acquires for performance of this contract shall remain the property of Seller, notwithstanding any charges therefor. Tool charges convey to buyer the right to have the tools used by Seller for performance of this contract, but they do not convey title or right of possession. Seller shall be responsible for routine maintenance and repair of such tools, dies and jigs. Major overhauls, replacements or changes shall be charged to buyer.

13. Governing Provisions. **THIS CONTRACT AND THESE TERMS AND CONDITIONS SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN SELLER AND BUYER, AND SHALL BE GOVERNED BY AND SHALL BE CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF WISCONSIN (WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAWS). THERE ARE NO CONDITIONS AFFECTING THIS AGREEMENT WHICH ARE NOT EXPRESSED HEREIN. THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL NOT BE GOVERNED BY THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS. TERMS OF SALE DISTINCT FROM THOSE IN THIS DOCUMENT SHALL APPLY TO SALES OF ANY PRODUCTS SOLD OR USED BEYOND THE BOUNDARIES OF THE UNITED STATES, AND ARE AVAILABLE FROM SELLER UPON REQUEST.**