

# TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale shall be effective for all merchandise sold by Bodine Electric Company (the "Company") to the entity to whom they have been provided, and all affiliates of such entity (collectively, "buyer"). These Terms and Conditions of Sale shall supersede all other agreements, communications and understandings between the Company and the buyer that are inconsistent with the terms hereof. **No terms or conditions contained in any purchase order or other document submitted by (or on behalf of) buyer which conflict with or differ from these Terms and Conditions of Sale shall be deemed to have been accepted by the Company unless the same have been specifically accepted in writing by the Company. Any purchase order submitted by the buyer containing different or additional terms shall be deemed to form a contract on all terms other than those which are different from or in addition to the terms of these Terms and Conditions of Sale. All such different and additional terms are hereby declared to be material and hereby objected to and rejected by the Company.** Nothing contained in these Terms and Conditions of Sale shall be deemed to constitute any commitment by the Company to supply any particular quantity of merchandise to buyer.

1) **PRICES -**

Prices and discounts in catalogs and published price lists are subject to change without notice, as these are prepared for the purpose of supplying general information, and are not quotations or offers to sell on the part of the Company. Prices are based on quantity and delivery period. All quotations are subject to change after 15 days. All orders will be invoiced at the price in effect at the time of shipment.

2) **ORDERS -**

All orders received are subject to acceptance by the Company at its Northfield, IL, U.S.A. headquarters. Modifications or changes to specifications, quantity, or delivery period of products covered by an order on which work has been started are acceptable only upon written approval of the Company. Under these circumstances, the Company reserves the right to revise its price and delivery schedules to affect such change(s). In addition, the Company has the right to charge the buyer for expenses incurred by the Company for work already performed but rendered unnecessary by such change(s).

3) **TERMS AND CREDIT -**

On approved credit, terms are cash net thirty (30) days from date of invoice. Pro rata payments shall become due as shipments are made and invoiced. Amounts past due are subject to an additional monthly charge of 1%. If credit is not established or if, in the judgment of the Company, the financial condition or previous payment experience of the buyer at any time does not justify continuation of manufacture or shipment on the terms specified herein, the Company may require full or partial payment in advance. In the Company's sole discretion (based on its assessment of buyer's ability to make payments and other factors), the Company may suspend delivery of any order or any remaining balance thereof until such payment is made or cancel any order or any remaining balance thereof, and buyer shall remain liable for any products already shipped and any cancellation charges as defined in section 8 herein.

4) **TAXES -**

The Company's prices do not include federal, state, provincial or local sales, use, value added, excise, duties or any other taxes. Buyer agrees to pay these taxes unless buyer has provided the Company with an exemption resale certificate in the appropriate form for the jurisdiction of buyer's place of business and any jurisdiction to which products are to be directly shipped hereunder. Buyer agrees to indemnify and hold the Company harmless for any liability for tax in connection with the sale (other than income taxes), as well as the collection or withholding thereof, including penalties and interest thereon.

5) **SHIPMENT -**

All shipments are made EXW (Ex Works as defined in Incoterms 2010) the Company's plant. Delivery of the products to the carrier shall constitute delivery to the buyer and title and risk of loss shall thereupon pass to buyer. Standard packing for overland, air, or containerized sea shipment is included in quoted price. Orders should clearly state method of shipment. When shipping instructions do not appear on the order, shipment will be made according to the Company's best judgment and no claim for adjustment of transportation will be allowed. No claims will be allowed for products damaged by the buyer or damaged in transit. Claims for transit damage are to be filed with the carrier by the buyer.

6) **DELIVERY -**

Delivery dates are approximate and are based on prompt receipt of all necessary information and approvals from the buyer. The Company is not liable for loss, damage, detention, or delay from acts of God, a fire or other casualty, accidents, strikes, shortage of labor or materials, governmental action or other causes beyond its reasonable control. In the event of any such delay, the date of delivery will be extended by such length of time as may be reasonably necessary to compensate for the cause of the delay. Delay in delivery of one installment shall not entitle buyer to cancel other installments.

7) **DELIVERY DEFERMENTS -**

Product scheduled for delivery within 30 days from the date a request for deferment is received at the Company's plant cannot be deferred and will be completed and invoiced. Limited deferment of product scheduled for shipment beyond 30 days may be possible. Storage of completed or partially completed product will be at buyer's expense. Consult the Company for other details and costs, if deferment is contemplated.

8) **CANCELLATIONS -**

No orders are accepted subject to cancellation, deferment, or decrease at a later date. All requests for cancellation or for deferment of delivery must be in writing to the Company. Cancellation charges may include cost of raw material on hand and on order, manufacturing cost, engineering expense, selling expense, and a reasonable profit depending on the degree of completion.

9) **RETURN OF PRODUCT -**

Regardless of the reason for return, written approval for return must first be obtained from the Company. Buyer must prepay return transportation.

10) **CLAIMS AND REJECTION OF PRODUCT -**

To reject product as not meeting specifications, the buyer must notify the Company in writing within 30 days from initial receipt of the product. The Company shall have the option of re-inspection at the buyer's plant or its own, before allowing or rejecting the claim. If the Company allows any rejection of product, the Company's sole obligation (and buyer's sole remedy) shall be, at the Company's election, repair or replacement of the rejected product or a refund of the purchase price for the rejected product.

11) **ENGINEERING SERVICES -**

The Company and its representatives will generally furnish upon request, without charge, data and proposals relating to the application or use of its products with the buyer's equipment. However, the Company will not be responsible for the success or failure of such proposals after their adoption or use in whole or in part by the buyer. Where extensive tests are required or special development work is undertaken, a charge may be necessary, but such a charge shall be agreed to by both parties prior to the start of work. Title, all rights, and patents in connection with patterns, tools, jigs, fixtures, drawings, and/or models, etc. relating in anyway to any development made by the Company shall remain the property of the Company.

12) **DESIGN, DIMENSIONS, AND WEIGHTS -**

The Company reserves the right to revise, improve or discontinue designs without notice. Any weights published are approximate and sufficiently accurate for most uses. The buyer should request certified prints where dimensions or weights are critical.

13) **LIMITED WARRANTY -**

The Company warrants all products manufactured by it to be free of defects in workmanship and materials when used under normal operating conditions and when applied in accordance with nameplate specifications. This warranty shall be in effect for a period of twelve months from date of purchase or eighteen months from date of manufacture, whichever comes first. The Company will, at its option, repair, replace, or refund the purchase price of any of its products which has been found to be defective and is within the warranty period, provided that the product is shipped freight prepaid, with previous authorization, to the Company's plant in Peosta, IA, U.S.A., or to the nearest Bodine Authorized Service Center. All return shipments are F.O.B. the Company's plant or Authorized Service Center. The Company is not responsible for removal, installation, or any other incidental expenses incurred in shipping the product to or from the Company. **This warranty is in lieu of any other expressed or implied warranty - including (but not limited to) any implied warranties of merchantability and/or fitness for a particular use or purpose.** The Company's liability under this warranty shall be solely limited to repair, replacement, or refunding the purchase price of the Company's product within the warranty period and, irrespective of any other terms hereof, the Company shall not be liable, under any circumstances, for any consequential, incidental or indirect damages or expenses associated with the warranted products. Commutator and/or brush wear and its associated effects are a normal occurrence and are not covered by this warranty unless otherwise agreed to by the Company in writing. Any product of the Company, which is damaged due to misuse, abuse, and negligence or has been modified or dismantled without the knowledge or written consent of the Company, is not covered by this warranty.

14) **OVER AND UNDER SHIPMENTS -**

Upon mutual agreement of the Company and the buyer, orders for non-stock (built-to-order) products may be considered complete when quantities shipped are within an allowable variation of the quantity ordered.

15) **ERRORS -**

The Company is not responsible for typographical errors made in any of its publications or for any stenographic or clerical errors. All such errors are subject to correction.

16) **ACCEPTANCE BY BUYER -**

The Company is not bound by any printed matter on the buyer's acceptance forms or purchase orders which impose conditions which vary with the terms herein provided, and buyer's issuance of an order to Company quotations shall be deemed an acceptance of the Terms and Conditions of Sale herein. These terms and conditions are subject to modification only through mutual agreement in writing of authorized individuals of the buyer and the Company. If these Terms and Conditions are not acceptable, buyer must notify the Company at once.

17) **GOVERNING LAW; VENUE -**

The law of State of Illinois shall be deemed applicable to all aspects of the transactions to which these Terms and Conditions of Sale relate, and all products delivered hereunder. The Company and buyer agree that venue for all disputes arising hereunder shall lie in the Circuit Court of Cook County, within the State of Illinois.