

TERMS AND CONDITIONS OF SALE

1. ACCEPTANCE OF ORDER. All orders for products or services are subject to acceptance by Banner Service Corporation (BSC). Acceptance shall be in writing and signed by an authorized official of BSC. In the event acceptance is made in response to purchases based upon catalog and price list merchandise, it is expressly made conditional on consent by Purchaser of any terms herein which are additional to or different from those proposed by Purchaser in his purchase order.

2. ALTERATIONS; CANCELLATION. After acceptance by BSC, no order may be altered or modified by Purchaser unless agreed to in writing and signed by an authorized official of BSC. No order may be cancelled or terminated except on the following conditions:

(a) Any BSC product which can be completed within thirty (30) days of Purchaser's request to stop work or cancel will be shipped and Purchaser agrees to accept the shipment and to pay for it at the full contract price.

(b) Subject to subparagraph (a) above, all work in connection with such order will be stopped within a reasonable time upon receipt of Purchaser's request, and Purchaser agrees to pay BSC for all costs, expenses and losses including all work in process and any raw materials or supplies used, or for which commitments have been made by BSC in connection therewith, on the basis of BSC's full cost and expenses computed in accordance with BSC's standard practice, plus ten (10%) thereof.

3. PRICES. Unless accepted in writing, verbal quotations expire at the close of the business day on which they are made. All published prices and discounts are subject to change without notice. In the event of a net price change, except as otherwise provided herein, the price of BSC's products or services on order will be the price in effect on the date BSC receives the order, except that if manufacture, production or delivery is delayed upon instructions from Purchaser, the prices shall be those in effect when the instructions are received to proceed with the order. Any addition to an outstanding order will be accepted at prices in effect when the additional order is accepted. BSC reserves the right to adjust the published prices to reflect any variations without notice, at time of delivery. Any costs incurred by BSC due to the Purchaser's delay, other than for the foregoing causes shall be the Purchaser's responsibility and the Purchaser shall be liable for such cost.

4. MINIMUM CHARGE. Orders amounting to less than fifty dollars (\$50) net will be billed and paid for at fifty dollars (\$50).

5. TAXES. Any Manufacturer's Tax, Retailer's Occupation Tax, Sales Tax, Excise Tax, Duty, Custom, Inspection or Testing Fee, or other tax, fee, or charge of any nature whatsoever, imposed by any government authority on or measured by any transaction between BSC and Purchaser, shall be paid by Purchaser in addition to prices quoted or invoiced. In the event BSC shall be required to pay any such tax, fee or charge, Purchaser shall reimburse BSC therefor within thirty (30) days of payment of such tax by BSC.

6. TERMS OF PAYMENT. ½% 10 days; net 30 days. A service charge of one (1) percent per month will be added on all past due invoices. All payments shall be applied first to the reduction of any and all accrued and unpaid interest and the balance of the reduction of principal until payment, in full, shall be made pursuant to this agreement. As security for payment of any sum due or to become due under the terms of this or any other agreement with the Purchaser, BSC is hereby granted the right by the Purchaser to retain possession of and to have a lien upon all of the Purchaser's property in BSC's possession, including work in progress and finished work and relating to other orders of the Purchaser. Purchaser further acknowledges and agrees that the extension of credit or the acceptance of notes, trade acceptances or guarantee of payment, shall not affect said security interest and lien. Purchaser hereby acknowledges and agrees that it shall pay any and all costs and expenses relating to the collection of all payments due hereunder, if any, and there shall be allowed and included as additional indebtedness in any judgment relating to the collection of payments due hereunder, all expenditures and expenses which may be paid or incurred by BSC, including, but not limited to, actual attorneys' fees and court costs.

7. F.O.B. POINT. All sales are F.O.B. BSC's platform unless otherwise stated.

8. DELIVERY. Delivery of equipment by BSC to a carrier shall constitute delivery to Purchaser. Title and all risk of loss or damage in transit shall pass to Purchaser upon delivery to such carrier regardless of freight payment. Purchaser shall be charged for any warehousing fees, demurrage fees, trucking and other expenses occasioned by or incident to any delays beyond the scheduled shipping date requested or made for the convenience of Purchaser. Claims for shortages or other errors shall be made in writing to BSC within ten (10) days after receipt of shipment. Failure to make such claims within such time shall constitute a waiver of all such claims by Purchaser. Methods and route of shipment will be at the discretion of BSC unless Purchaser shall specify otherwise in writing. Any additional expense because of the method or route of shipment specified shall be borne by Purchaser.

9. SHIPPING SCHEDULE. All quoted shipping schedules are approximate and will depend upon prompt receipt by BSC from Purchaser of all blueprints and other information necessary for the design and manufacture of the equipment or material ordered. Dimension drawings, circuit drawings, and specifications submitted by BSC to Purchaser for approval must be returned to BSC within seven (7) days with approval granted or any exceptions noted in writing in order to avoid delay in manufacture. Failure of Purchaser to return approved drawings within seven (7) days shall constitute acceptance of the design as submitted. Purchaser shall be charged for any additional materials or labor required to effect any change in design requested by Purchaser. Orders including penalty clauses for failure to meet shipping schedules are not acceptable, except when specifically approved in writing by an officer of BSC. BSC shall not be liable for any damage caused as a result of any delay due to any cause beyond BSC's reasonable control, including, without limitation, Act of God; act of Purchaser; embargo or other governmental act; regulation or request; civil disorder; fire; accident; strike; slowdown; declared or undeclared war; riot, flood, 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 by reason thereof. Purchaser's acceptance of the product or equipment when delivered shall constitute a waiver of all claims for damage caused by any such delay.

10. DEFECTIVE PRODUCTS. All products sold by BSC are inspected before shipment; however, should any such products supplied hereunder be defective in material or workmanship, Purchaser shall notify BSC immediately and BSC shall repair or replace the defective products without cost to Purchaser or, at BSC's option, to credit or repay the purchase price upon return of the defective products. It is Purchaser's responsibility to inspect material upon receipt and claims regarding defective products will not be honored and will be deemed waived by Purchaser if submitted beyond thirty (30) days after date of delivery as shown on BSC invoice or if goods are not held available at Purchaser's place of business for BSC's inspection. BSC will be given reasonable opportunity to investigate all claims and no products may be returned by Purchaser to BSC until after receipt by Purchaser of definite written shipping instructions from BSC. In no event may any claim be made after goods have in any way been used or processed by Purchaser.

11. DISCLAIMER. THE MATERIAL HEREIN SOLD IS SUPPLIED IN ACCORDANCE WITH THE SPECIFICATIONS SUPPLIED BY PURCHASER. THE SOLE RESPONSIBILITY OF BSC SHALL BE TO SUPPLY THE MATERIAL IN ACCORDANCE WITH THE PURCHASER, AND TO WARRANT THAT THE MATERIAL WILL BE FREE FROM DEFECTS IN WORKMANSHIP. THIS WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL WARRANTIES. BSC MAKES NO OTHER WARRANTY OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF THE MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR TECHNICAL ADVICE WHICH MAY BE AVAILABLE TO THE TRADE. IT IS UNDERSTOOD AND AGREED THAT THE LIABILITY OF BSC WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY OR OTHERWISE SHALL NOT EXCEED THE OBLIGATION SET FORTH IN PARAGRAPH 10 ABOVE TO REPAIR OR REPLACE DEFECTIVE PRODUCTS OR, AT BSC'S OPTION, TO CREDIT OR RETURN THE PURCHASE PRICE PAID BY PURCHASER. UNDER NO CIRCUMSTANCES SHALL BSC BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSSES, LOST PROFITS OR OTHERWISE, OR EXPENSE. THE PRICE STATED FOR EQUIPMENT OR MATERIAL IS A CONSIDERATION IN LIMITING THE LIABILITY OF BSC.

12. UNDERLYING MATERIALS. All Computer programs, system analysis and underlying materials developed by BSC in order to produce work for a Purchaser with the use of data processing machines or computers are the property of BSC. No use shall be made of or ideas taken from such program, analysis or materials without the express permission, and only upon payment of compensation determined by BSC.

13. PURCHASER'S PROPERTY. BSC shall only maintain fire, extended coverage, vandalism and malicious mischief insurance on all property belonging to the Purchaser and only while such property is in BSC's possession; the Purchaser hereby acknowledges that BSC's liability for such property shall not exceed the amount recoverable from such insurance and that this shall be the sole and exclusive remedy of the Purchaser. All additional insurance requested or required by the Purchaser must be in writing and shall be at the Purchaser's sole cost and expense. All Purchaser's property to be stored with BSC, is at Purchaser's risk after delivery of order or invoicing whichever comes first, and BSC will not be liable for any loss or damage thereto caused by fire, water leakage, theft, negligence or any causes beyond the control of BSC.

14. CHANGES IN LABOR RATES AND MATERIALS PURCHASED. The prices contained herein are based on the cost of labor and materials as of the date hereof and the Purchaser hereby understands and agrees that said prices are subject to adjustment to reflect any increase in such cost subsequent to this date. Should there be any changes in these costs after the order is accepted and before completion of work, actual material and labor cost will be charged on the final billing at BSC's then current rates.

15. MANUFACTURING. BSC has the right to subcontract all work to be performed by it hereunder.

16. INTERPRETATION. This writing is intended as a final expression of the agreement between BSC and Purchaser and as a complete and exclusive statement of the terms thereof and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of its terms. Acceptance of, or acquiescence in, a course of performance rendered under this or any prior agreement shall not be relevant or admissible to determine the meaning of this agreement even though BSC has knowledge of the nature of the performance and an opportunity to make objection. No representations, understandings, or agreements have been made or relied upon in making this agreement other than those specifically set forth herein. This agreement can be modified only in a writing signed by an authorized official of BSC. The Purchaser hereby acknowledges that he has read this agreement and understands and agrees to be bound by its terms, conditions and prices.

17. FAIR LABOR ACT. BSC certifies that the goods produced hereunder are in compliance with the applicable requirement so Sections 6, 7 and 12 of the Fair Labor Standards Act as amended.

18. EQUAL OPPORTUNITY. BSC certifies that they are in compliance with Executive Order 11246 as amended by Executive Order 11375.