

SBE Sales Terms and Conditions

SBE, Inc. (hereinafter referred to as "SBE") and the "BUYER" identified on the reverse side of this Quotation hereby agree to be bound by these terms and conditions in connection with the sale of goods described on the reverse side hereof.

1. **Amount and Type of Goods.** SBE agrees to sell and BUYER agrees to buy the quantity and type of goods which are described herein or which comply with written specifications submitted by BUYER and accepted by SBE (the "Goods").
2. **Price and Payment.** The price of the Goods is based on full acceptance of these terms and conditions and shall be as specified herein. Any deviation from quoted specifications requested by BUYER may result in price adjustments. If, for any reason, payment cannot be made in accord with the terms hereof or terms agreed to in writing, BUYER shall immediately notify SBE in writing of such fact and the reasons set forth. In such event and in addition to any other rights SBE may have, as provided by law or hereunder, SBE shall have the option of canceling this Contract without penalty. Buyer will promptly pay all sums when due. In the event of non-payment, Buyer agrees to pay, in addition to the principal amounts due, all collection charges incurred by SBE, including charges made by a collection agent, up to, but not exceeding, 30% of the principal balance due and, in the event of suit, reasonable attorney's fees and court costs.
3. **Taxes.** Prices are exclusive of all federal, state and local excise, sales, use and similar taxes, if any. Customers purchasing for the resale within the State of Vermont must furnish a resale certificate. The certificate shall be signed by and bear the name and address of the BUYER, its resale permit number and shall indicate the general character of the tangible personal property sold by the BUYER in the regular course of business.
4. **Delivery.** The delivery of the Goods shall be made, in a single or in multiple lots, as specified herein and shall be made on or before the date specified herein, or within a reasonable time thereafter. The delivery schedule hereof shall be considered extended by a period of time equal to the time lost because of any delay which is due to causes beyond SBE'S control as enumerated in paragraph 18 hereof. All installments shall be separately invoiced and paid as billed without regard to future deliveries. Failure to pay for any installment when due shall excuse SBE from making further deliveries. Delay in delivery of any installment shall not relieve BUYER of its obligation to accept remaining installments. All claims for delay shall be deemed waived unless presented to SBE in writing within ten (10) days after delivery of each shipment. The goods shall be delivered to the place described herein.
5. **Shipping.** Goods are sold ExWorks factory. Shipping, unless otherwise specified herein, will be the least expensive surface transportation as determined by SBE.
6. **Shipment Under Reservation.** It is agreed that SBE will maintain title and the right of possession in the Goods sold until such time as payment thereof is made by BUYER.
7. **Packaging.** SBE will determine the type of container and arrange for suitable packaging for domestic transport and delivery of the Goods, and charges related thereto are included in the price for the Goods set forth herein and will be paid by SBE. Special packaging may result in additional charges to BUYER.
8. **Risk of Loss.** The risk of loss of the Goods shall pass to BUYER as soon as the Goods are tendered to BUYER. It is agreed that SBE will secure, at BUYER'S expense, adequate insurance coverage equal to the selling price of the Goods sold herein and both BUYER and SBE agree that coverage equal to the selling price of the Goods sold herein and both BUYER and SBE agree that in the event of loss or damage to the Goods, their sole remedy shall rest with such insurance coverage without regard to a breach or default and without regard to the adequacy of the recovery of insurance proceeds.
9. **Casualty to Identified Goods.** In the event that the Goods covered by any contract resulting from this quote are destroyed or damaged, in whole or in part, prior to time the risk of loss passes to BUYER, the contract shall be voided and SBE excused from all obligations hereunder. If the loss is partial, BUYER shall have the right to accept that portion of the Goods which conform to the written contract.
10. **Warranties.** BUYER, in furnishing specifications to SBE, agrees to hold SBE harmless against any claims by way of infringement or the like of which arise out of compliance with the specifications. The Goods sold hereunder, when operated within specifications, are warranted to be free from defects in workmanship and materials for a period of one (1) year after date of manufacturing and this warranty shall be limited to repair or replacement of the Goods. SBE assumes no responsibility for the design characteristics of any unit or its operation in a circuit or assembly. Except as provided herein, no other express warranty is given and no affirmation by SBE in words or action, shall constitute a warranty. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING IMPLIED WARRANTIES FOR MERCHANTABILITY OR FITNESS.
11. **Right of Inspection.** BUYER shall have the right to inspect the Goods after delivery. Failure to give notice in writing to SBE of any obvious defects or omissions within three (3) days after delivery shall constitute an irrevocable acceptance of the Goods.
12. **Rejected Goods.** In the event BUYER rejects any shipment of the goods, and elects to accept only a part thereof, it is agreed that BUYER shall contact SBE for a RMA, prior to the rejected Goods being returned to SBE within ten (10) business days, and shall be at the expense and risk of BUYER. SBE shall maintain the right in its discretion to either replace the rejected Goods or refund the purchase price applicable thereto.
13. **Termination.** If BUYER violates, or is officially charged with a violation of any law, regulation, or ordinance which may govern the sale, handling, or disposition of any of the Goods, or if BUYER becomes insolvent, or makes any assignment for the benefit of creditors, or is adjudged bankrupt, or if a receiver or trustee of BUYER'S property is appointed, SBE may, at sole discretion, terminate any contract resulting from this quote and may refuse to make any further deliveries. In the event that any additional customs duty or tariff shall be imposed between the date hereof and the date of arrival at the appropriate point of entry into BUYER'S country, SBE shall have the right to terminate any contract resulting from this quote and any further deliveries thereunder, unless BUYER pays such additional duties or tariffs.
14. **Identification.** It is specifically agreed that identification of the Goods sold shall occur when the Goods are ready for shipment.
15. **BUYER'S Remedies.** In the event of breach or repudiation by SBE of any contract resulting from this quote, BUYER'S right to damages shall be limited to the contract price of the Goods, and BUYER shall not have the right to "cover" and fix damages by contracting for substitute Goods at SBE's expense. Further, SBE shall not be liable, under any circumstances for the cost of processing, lost profits, injury to goodwill or any incidental or consequential damages as those terms are defined in the Uniform Commercial Code.
16. **Exclusive Agreement.** Any contract resulting from this quote will constitute the entire contract and exclusively determines the right and obligations of the parties hereto, any prior course of dealing, custom or usage of the trade, or course of performance notwithstanding, and may not be modified except in writing and signed by SBE'S authorized agent.

17. **Non-Assignability.** Any contract resulting from this quote shall not be assignable or delegable by either party hereto without the written consent of the other.
18. **Force Majeure.** SBE shall not be responsible for delays in delivery or any failure to deliver due to causes beyond SBE'S control including, but not limited to: acts of God, war, mobilization, civil commissions, riots, embargoes, domestic or foreign governmental regulations or orders, fires, floods, strikes, lockouts and other labor difficulties, or shortages of or inability to obtain shipping space or transportation.
19. **Arbitration.** All controversies and claims arising out of or relating to any contract resulting from this quote, or breach thereof, shall be settled solely by arbitration held in Barre, Vermont, in accordance with the rules of the American Arbitration Association, and any judgment upon any award thereon may be entered in any court having jurisdiction thereof. And demand for arbitration hereunder shall be made not later than ninety (90) days after delivery of the Goods.
20. **Choice of Laws.** Any contract resulting from this quote, and all of the rights and obligations of the parties hereto, shall be governed by the Uniform Commercial Code as enacted and in force in the great State of Vermont on the date of any contract resulting from this quote.
21. **BUYER revisions.** A minimum of four (4) weeks notification prior to SBE ship date is required for consideration of shipping schedule changes to an order resulting from this quote.
22. **No Cancellation, No Return (NCNR) policy.** SBE has a NCNR policy. The NCNR policy is specific to custom designed components for customer specific applications. In the event SBE does authorize a return, a 10% restocking charge will apply. In the event of cancellation or other withdrawal of an order for any reason, reasonable cancellation charges to cover all expenses, then incurred, and commitments made by SBE, shall be paid by BUYER to SBE.
23. **Overage/ Shortage of shipments.** SBE reserves the right to ship and invoice for quantities of custom designed components and parts, within 5% of quantity ordered.