

# GENERAL TERMS AND CONDITIONS



Page 1 of 4

**1. GENERAL** Whenever the term "Seller" is used herein, it means Alltec, its divisions, subsidiaries and affiliates. Quotations by Seller are subject to acceptance within thirty days from date, unless otherwise noted and are subject to change in price or other particulars by Seller upon notice to Buyer.

Open/blanket Purchase Orders extending past 6 months are subject to cost reviews and subsequent price increases. All pricing is subject to final design review. All offers to purchase, orders of Buyer pursuant to quotations and contracts of sale, are subject to final written acceptance by Seller's order acknowledgement and all terms thereof shall be interpreted according to the laws of the State of California, and sole and exclusive jurisdiction shall be with the courts of San Luis Obispo, California.

**2. TERMS OF PAYMENT** All sales are F.O.B, Alltec, San Luis Obispo, California. Risk of loss transfers to Buyer upon Seller's delivery to carrier. Delivery of services is effective as rendered. The following Terms of Payment providing other than cash on delivery or invoice are continuously subject to Seller's sole judgment of Buyer's credit worthiness.

Tooling: Payment of total price is due: 50 percent with order, 50 percent at time of Seller's submission of samples to Buyer. In the event Buyer orders a revision after substantial progress on the tool, payments will be due and payable according to the amounts and the schedule for completion, which were quoted prior to the revision. Terms for the revision shall be as quoted.

Seller will submit sample parts to Buyer when being produced from a stable process and reasonably meeting functional requirements.

Production Items (parts): Net cash 30 days from date of invoice upon credit approval. In case of delay of shipment at Buyer's request, payment is due according to original schedule of Buyer's order. Delay in shipment by Seller at Buyer's request does not waive Seller's right to refuse to delay shipment in the future. Retention of parts by Buyer without timely notice (per Paragraphs 8 and 9 below) is prima facie evidence of acceptance requiring payment of invoice. Other Services: Payment shall be due upon performance as evidenced by invoice to Buyer.

Past Due Service Charge: An interest payment of 1.5 percent per month will be accrued and shall be payable by Buyer on all past-due amounts.

**3. SALES AND SIMILAR TAXES** Sales, use, occupational, gross income, excise, or other similar taxes are not included in the price quoted and if this transaction is subject to any such tax, by any taxing authority whatever, such taxes or any costs in connection therewith, whether imposed before or after payment of the invoice, shall be paid by the Buyer.

**4. MILITARY AND GOVERNMENT APPLICATIONS** For military or government applications Seller's obligations shall be based solely on commercial standards.

**5. MOLDS, DIES, AND TOOLS - CUSTODY, MAINTENANCE, AND CONTROL** Buyer's molds, dies, or tools in the possession of the Seller are at the risk of the Buyer, and Seller does not undertake to cover the loss of or damage to any such property. The Seller will hold all molds, dies, and tools in operation during their normal productive life, except that its liability to do so shall be limited to a period of one year after completion of the most recent production order and the Seller shall not be liable for the continued retention or availability of any such mold, die, or tool after the expiration of such period. A storage service charge will be invoiced to Buyer for retention of inactive tools by Seller. An engineering charge of 30% of the cost of any mold, die or tool will be billed to Buyer for any tooling furnished to Buyer upon demand for delivery before the customer guaranteed quoted part quantity has been produced. A storage and tooling maintenance charge of no less than \$100 per month and up to \$500 per month from the date of the last production run will be charged to Buyer. If, in the judgment of the Seller, such tooling contains (or includes) proprietary ideas (or devices) Seller reserves the right to refund the purchase price of the tool less engineering charge rather than surrender same.

**6. DELIVERIES** Delivery subject to confirmation at time of order. Production orders may be scheduled for multiple deliveries as follows: order quantity 500 – single delivery only; order quantity over 2,000 – three deliveries over 90 day period. The Seller shall be under no liability for failure to make deliveries where such failure to deliver may be due to fires, strikes, accidents, acts of God, labor or transportation difficulties, car shortage, inability to obtain deliveries of material, action of any state, federal or local government or other causes beyond its reasonable control. Buyer agrees to accept any delayed shipment where such delay may be due to events beyond Seller's reasonable control, including, but not limited to: those events already described. paragraph, completion of orders accepted prior to acceptance of this order, delay in or absence of receipt of necessary instructions from Buyer, or changes in the work to be performed.

**7. PACKAGING & SHIPPING** Production price quotation is based upon bulk packaging. All shipping is FOB, Alltec, 4330 Santa Fe Road, San Luis Obispo, CA 93401. Customer is responsible for all shipping costs. Program specific or "unique" packaging and shipping requirements must be established in writing prior to acceptance of Purchase Order.

**8. QUANTITIES AND WEIGHTS** Unless specifically agreed to the contrary in writing by both parties, the quantity and or weights specified on the order are deemed to be approximate and the Seller is permitted to over or under ship by 10% on all sub-components and final assemblies.

**9. CLAIMED SHORTAGES** Claims for error in quantity, weight, number, or condition must be notified to Seller, in writing, within ten (10) days after receipt of the material; and the Seller will not be responsible for any claims not reported within that period.

**10. QUALITY ACCEPTANCE / RETURN OF MATERIAL** No materials are to be returned without the prior written consent of the Seller as evidenced by Seller's Return Material Authorization Number. Customer should inspect product promptly upon receipt. If any defects are found contact to Alltec customer service department must be made within 10 days of receipt of product. An RMA number will be issued for the return of product and this number should appear on all cartons. Specific-manufacturing standards, required for this program, must be submitted in writing prior to Purchase Order acceptance.

**11. CHANGES** Changes in the services to be performed hereunder may be made only by authority of Buyer's instructions and written acceptance by the Seller. Any changes in scope, drawings, materials, or design of the parts, units, tools, or fixtures which affect costs will call for re-pricing, and if work has been started, Seller shall be properly reimbursed for work already performed even if units already produced have yet to be accepted by Buyer. Seller similarly reserves the right to re-price if changes involve an increase or decrease in the quantities due or in the time required for performance under the order. Both deferrals and push-outs are accepted up to 15 days from issuance date of PO, and additional charges may result.

**12. TERMINATION** After the Seller has commenced work or ordered any materials or made any other commitments pursuant to this order, it may be terminated or canceled only with the written agreement of the Seller providing for equitable cancellation charges. Such charges shall reimburse the Seller for completed items at the contract price, and/or materials and work-in-process at contract price less cost to complete.

**13. PATENT OR TRADEMARK INFRINGEMENTS** The Buyer will indemnify the Seller and hold the Seller harmless against any loss, cost, liability, or expenses resulting from infringement or claimed infringement of patents or trademarks resulting from Seller's manufacture of products to Buyer's specifications, whether the claim is upheld or not.

**14. EXCLUSION OF MERCHANTABILITY AND FITNESS FOR USE WARRANTIES, LIABILITY LIMITATIONS, AND HOLD HARMLESS REQUIREMENT SELLER DOES NOT WARRANT MERCHANTABILITY OR FITNESS FOR USE AND MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT THAT** molds, dies, tools and parts when completed will meet the physical description specified by Buyer to Seller at the time of quotation or contract or as subsequently changed as confirmed in writing by Seller.

The Seller does not warrant or assume liability on any claims for defective material items or services which claims are not made within ten (10) days after the material items or services are received by the Buyer, and Seller's liability shall be limited to the replacement of such defective items or services. Seller will not be responsible to Buyer, Buyer's employees, or third parties for personal injury or property damage caused by or incidental to Buyer's use, handling of sale of goods manufactured or other services delivered by Seller. Seller will not be responsible or liable in any way for Seller's errors or omissions or in any circumstance for consequential damage or contingent liability.

**14. continued...** Buyer agrees to indemnify and hold Seller harmless, defending in Buyers own name all lawsuits and all actions or claims for personal injury or property damage brought by anyone against Seller as a result of or incidental to Buyer's use, handling, or sale of goods manufactured or other services delivered by Seller. The preceding is the complete allocation of the risks from Seller's failure to perform. This allocation is recognized by both Buyer and Seller and is reflected in the price.

**15. SCOPE** There are no understandings, agreements or warranties, either verbal or written, relative to this quotation or contract that are not fully expressed herein and no change shall be made in this quotation or contract unless reduced to writing and agreed to by both parties. No statement, recommendation or assistance made or offered by Seller through its representatives to the Buyer or his representatives in connection with the use of any product or service shall be or constitute a waiver by Seller, other than by communication duly signed by an officer of the Seller, of any of the provisions hereof or change the Buyer's liability as herein defined.

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