



TERMS AND CONDITIONS

TERMS OF SALES

All sales are expressly conditional on Purchaser's agreement to the standard terms and conditions on this form. No additional or different terms apply unless expressly agreed to in writing by MARC(Thailand). MARC(Thailand) hereby gives notice of its objection to any different or additional forms. Acceptance of or payment for any of the goods constitute buyer's agreement to MARC(Thailand) terms and conditions. No sales representative of MARC(Thailand) has authority to alter, vary or waive any of the standard terms and conditions as stated below.

TAXES

The price does not include any federal, state or local property license, privilege, sales, use, excise, gross receipts or other like taxes which may now or hereafter be applicable to measured by or imposed upon or with respect to the transaction the property, its sales, its value or its use or any services performed in connection therewith Purchaser agrees to pay or reimburse any such taxes, which MARC(Thailand) or MARC(Thailand)'s subcontractors or suppliers are required to pay.

TERMS OF PAYMENT

Payment is due upon receipt of invoice. In the event Purchaser does not pay when due, past due amounts are subject to interest charge of 1.1/2% per month or maximum permitted by law.

PAYMENTS

MARC(Thailand) shall have the right to require full or partial payment in advance at any time if in its opinion the financial condition of the Purchaser does not justify the terms of payment specified.

If work is delayed by the Purchaser, MARC(Thailand) may also require payment for all materials accumulated and work performed on this order.

DELIVERY - RISK OF LOSS

Shipping and or completion dates are approximate and are based on prompt receipt of all necessary information from the Purchaser.

Risk of loss or damage during transit to and from a MARC(Thailand) factory or repair facility shall remain with the Purchaser. All transportation costs shall be for the account of the Purchaser and shall be added to the invoice.

DELAY

MARC(Thailand) shall not be liable for failure to perform or for delay in performance due to fire, flood, strike or other labor difficulty, act of any Governmental authority or of the Purchaser, riot, embargo, car shortage, wrecks or delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities from usual sources or due to any other cause beyond its reasonable control.

In the event of delay in performance due to any such cause the date of delivery or time for completion will be postponed by such length of time as may be reasonable necessary to compensate for the delay.

WARRANTY

MARC(Thailand) warrants that:

1. Services performed hereunder shall be free of defects in workmanship or material. Should any failure of the services to conform to this warranty appear under normal and proper use within one year after shipment of the repaired or revamped equipment by MARC(Thailand) (or in the case of equipment repaired or revamped on Purchaser's premises, after MARC(Thailand) has notified Purchaser that the same is ready for commercial operation) MARC(Thailand) shall correct the same by replacement or repair, F.O.B. factory of the defective part or parts.



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2. If the goods sold hereunder are the products of manufacturers other than MARC(Thailand), MARC(Thailand) makes no warranty, express or implied concerning such products. As respects MARC(Thailand), such goods are sold with all faults, but MARC(Thailand) shall use its best reasonable efforts to obtain from the manufacturer, in accordance with such manufacturer's customary practices, the repair or replacement of any products as may prove workmanship or material.

The warranty expressed in this paragraph is exclusive and in lieu of all other warranties, express or implied, including any warranties of merchantability and fitness for purpose.

The remedy(ies) provided above shall be Purchaser's sole remedy(ies) for any failure of MARC(Thailand) to comply with the warranty provisions, whether claims by the Purchaser are based in contract or in tort (including negligence).

CLAIMS

Buyer agrees in consideration of MARC(Thailand) execution of this contract that any claim of any kind by buyer based on or arising out of this contract or otherwise shall be barred unless asserted by buyer by the commencement of an action within 12 months after the delivery of the products or other event, action or inaction to which such claim relates. This provision shall survive any termination of this contract however arising.

LIMITATION OF LIABILITY

Neither MARC(Thailand) nor its subcontractors and suppliers of any tort shall be liable in contract or in tort (including negligence) for special, indirect, incidental or consequential damages including but not limited to damage or loss of other property or equipment, loss of profits or revenue, loss of use of power system, cost of capital, cost of purchased or replacement power, or claims of customers or Purchaser for service interruptions. The remedies of the Purchaser set forth herein are exclusive, and the liability of MARC(Thailand) with respect to any contract, or anything done in connection therewith such as the performance or breach thereof or from the manufacture, sale, delivery, resale, installation or technical assistance during installation, maintenance, repair, technical assistance during maintenance and repair, or use of any equipment covered by or furnished under this contract whether in contract, in tort or otherwise shall not, except as expressly provided in the provision entitled "Warranty" exceed the price set forth herein for the work.

PATENTS

Subject to the following provisions, MARC(Thailand) shall at its own expense, defend or at its option settle any claim, suit or proceeding brought against the purchaser and/or its vendors, mediate and immediate, so far as based on an allegation that any goods, material, equipment device or article (hereinafter referred to as product) or any part thereof furnished hereunder constitutes a direct or a contributory infringement of any claim of any patent of the United States. This obligation shall be effective only if Purchaser shall have made all payments then due hereunder and if MARC(Thailand) is notified promptly in writing and given authority, information and assistance for the defence of said claim suit or proceeding.

MARC(Thailand) shall pay all damages and costs awarded in such suit or proceedings so defended. In case the product or any part thereof furnished here under becomes the subject of any claim, suit or proceeding for infringement of any United States patent or in the event of an adjudication that such product or part infringes any United States patent or if the use of sale of such product or part is enjoined MARC(Thailand) shall as its option and its own expense either:

- a) Procure for the Purchaser the right to continue using said product or part thereof; or
- b) Replace it with a non-infringing product; or
- c) Modify it so it becomes non-infringing; or
- d) As a last resort remove it and refund the purchase price and the transportation and installation costs thereof



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Products sold by MARC(Thailand) under their respective manufacturers' brand or trade names, MARC(Thailand) hereby disclaims any and all warranties against patent infringement. MARC(Thailand) shall, however, if given prompt notice by the Purchaser of any claim of patent infringement with respect to any product sold hereunder, use its best efforts to secure for the Purchaser such indemnity rights as the manufacturer may customarily give with respect to such product.

The foregoing Indemnity does not apply to the following:

1. Patented processes performed by the product or another product produced thereby.
2. Products supplied according to a design other than that of MARC(Thailand) and which is required by the Purchaser.
3. Combinations of the product with another product not furnished hereunder unless MARC(Thailand) is a contributory infringer.
4. Any settlements of a suit or proceeding made without MARC(Thailand) written consent.

The foregoing states the entire liability of MARC(Thailand) with respect of patent infringement by said product or any part thereof.

If a suit or proceeding is brought against MARC(Thailand) solely on account of activities enumerated in paragraphs 1, 2, 3 and 4 above Purchaser agrees to indemnify MARC(Thailand) in the manner and to the extent MARC(Thailand) indemnified Purchaser in the preceding paragraph insofar as the terms thereof are appropriate.

INDEMNIFICATION

MARC(Thailand) shall subject to provision entitled "Limitation of Liability", indemnify and save the Purchaser harmless for, but only for, claims for physical damage to property and personal injuries, injuries, including death, occurring during the performance of the work hereunder on the premises of the Purchaser and resulting directly and solely from the negligence of the employees of MARC(Thailand) while engaged in such work. MARC(Thailand) shall, with respect to such work, comply with the provision of the applicable Workmen's Compensation Act.

TERMINATION

Seller shall not be liable for special indirect incidental or consequential damages. The remedies of buyer set forth herein are exclusive and the liability of seller with respect to any contract of sale of anything done in connection therewith whether in contract, tort (including seller's negligence), under any warranty or otherwise shall not exceeding the price of the product or part on which such liability is based.

CONTAINERS

An extra charge will be made for returnable containers and special shipping devices (such as oil barrels, reels, tarpaulins, commutator clamps, etc.) where they are consigned to the Purchaser, but refund will be made if returned in good condition to the factory, or other points designated by MARC(Thailand), within ninety (90) days from date of original shipment, charges prepaid.

SCRAP MATERIAL

All scrap materials become the property of MARC(Thailand).