

Terms and Conditions

Order Acceptance: Any written or oral purchase order received from Buyer by Balon Corporation ("Balon" or "Seller") shall be construed as a written acceptance of Balon's offer to sell and shall be filled in accordance with the terms and conditions of sale set forth herein. Balon's acceptance of Buyer's order is expressly conditioned on buyer's assent to the terms and conditions set forth below. The terms and conditions of Balon's proposal and acknowledgment (if any), including without limitation the terms and conditions set forth below, shall prevail over any conflicting or different terms in Buyer's order. Buyer's terms of purchase will not be considered a counteroffer to Balon's terms and conditions of sale. The failure of Buyer to object to any provision in conflict with Balon's terms and conditions of sale, whether contained in Buyer's purchase order or otherwise, shall not be construed as a waiver of any of the provisions of Balon's terms and conditions of sale nor as an acceptance of any provision of Buyer's terms of purchase.

Quotations, Prices and Discounts: Any product, service capability or manufacturing capability which may be available at the time a quotation is made is subject to prior sale. Prices quoted are valid for thirty (30) days, unless specifically stated otherwise on the quotation, and are subject to change without notice. The price in effect at the time of shipment including any escalation formula will apply, unless a valid quotation or written agreement to the contrary exists between Buyer and Balon. Unless otherwise expressly stated in writing and acknowledged by an authorized officer of Balon Corporation, all prices set forth in any of Balon's correspondence, printed material, quotations, acknowledgments, other documents or verbal communications are in U.S. dollars and reflect F.O.B. Balon's shipping point. Any documentation pertaining to traceability requirements for raw materials or products or documentation required for any routine or special processes must be identified by the Buyer at the time of quotation (if any) or at the time of order placement, whichever is earlier. All published prices and discounts are subject to change without notice. While Balon Corporation strives to provide accurate product and pricing information, pricing or typographical errors may occur. In the event that an item is listed at an incorrect price or with incorrect information due to an error in pricing or product information, Balon Corporation shall have the right, at its sole discretion, to refuse or cancel any orders placed for that item. In the event that an item is mispriced, Balon Corporation may, at its sole discretion, either contact Buyer for instructions or cancel the order and notify Buyer of such cancellation.

Invoice Terms: Payment for all materials, products and services at the full invoice stated net price must be received in hand, in good funds at Balon Corporation during normal business hours within thirty (30) calendar days from the date of Invoice (the "Due Date"). The amount of each Invoice for which Balon has not received payment in hand, in good funds at Balon Corporation during normal business hours within thirty (30) calendar days from the date of Invoice shall be subject to the maximum legal interest rate per annum, or such lesser rate as Balon may determine in its sole discretion, computed daily commencing on the Due Date and continuing until

Balon has received in hand, in good funds all amounts due in connection with such Invoice, including without limitation all interest accrued thereon. Balon reserves the right to impose a minimum billing charge on all sales, change orders or order supplements. Buyer agrees that title and risk of loss shall pass to Buyer on the date of Balon's Invoice.

Taxes, Duties and Exports: Any tax or other charge imposed by law on the sale or production of goods or the performance of services shall be paid by the Buyer, unless the law specifically provides that such payment must be made by Balon, in which case Buyer shall reimburse Balon for such payment as part of the purchase price. Custom duties, consular fees, insurance charges and other comparable charges will be borne solely by Buyer. Consular fees for legalizing invoices, stamping bills of lading, or other documents required by the laws of any country or destination are not included in quotations or selling prices. Balon assumes no responsibility for any fines or other charges imposed due to errors or incorrect declarations.

Literature: Published information such as catalogs, brochures, or other literature is subject to change without notice.

Freight Charges, Allowances and Claims: All shipments are F.O.B. at Balon's plant in Oklahoma City, Oklahoma. Freight charges will be allowed on orders of 1,000 pounds or more for shipment to one (1) destination within the continental United States or Canada (excluding Alaska). Freight allowances are via least expensive way. If Buyer designates a more costly transportation route or carrier, Balon shall have the right to assess a charge upon Buyer for the difference between the cost of Buyer's designated transportation route or carrier and the least expensive transportation method available to Balon. Buyer assumes risk of loss upon delivery to the carrier, regardless of who pays shipping costs. Unless requested in writing by the Buyer, no shipments are insured by Balon against damage or loss in transit. Balon will place insurance as nearly as possible in accordance with Buyer's written instructions but in such case Balon acts only as agent between the insurance company and the Buyer and assumes no liability whatsoever. Any claims for shipping loss, breakage or damage (obvious or concealed) are Buyer's responsibility and should be made to the carrier. All claims regarding shortages must be made to Balon in writing within thirty (30) days from receipt of shipment and must be accompanied by the packing list(s) covering the shipment.

Shipping Schedules: Shipment schedules are given as accurately as conditions permit and effort will be made to make shipments as scheduled. Balon will not be responsible for deviations in meeting shipping schedules nor for any losses or damages (including but not limited to any consequential, exemplary, indirect, incidental, punitive or special damages) incurred or suffered by Buyer or any third party arising out of or in connection with any deviations in the scheduled shipping of Buyer's Order. Balon shall have additional time within which to perform as may be reasonably necessary under the circumstances and shall have the right to apportion its production among its customers in such a manner as Balon deems equitable in its sole discretion.

Cancellation: Firm orders which have been accepted and entered by Balon shall not be subject to cancellation except by permission of and on the terms prescribed by Balon Corporation.

Return Policy: Unused products of current manufacturing design may be returned only upon written consent of Balon's Oklahoma City office. Credit will be issued only on products which are received by Balon within one year after the date of original purchase and returned by prepaid freight at Buyer's expense together with a copy of Balon's Return Authorization Form and documents which verify the original purchase order number and original invoice number. A deduction will be made for any cost incurred by Balon in restoring products to saleable condition. Credit may be used only for the purchase of merchandise and is not subject to cash reimbursement or cash payment.

Limited Warranty: Balon warrants its products against defects in material and workmanship for one (1) year from the original date of shipment. If Balon receives written notice from Buyer of any alleged defect in or nonconformance of any product within one (1) year from the original date of shipment of such product. Then, upon Balon's request, Buyer shall return the product F.O.B. to Balon's designated plant or service location at Buyer's sole cost and expense. Balon shall have no liability for removal or reinstallation of products. If, in Balon's sole judgment, the product does not conform or is found to be defective in material or workmanship, then Balon, at its sole option, shall either repair the product, replace the product or repay to Buyer the full price paid by Buyer for such product, without interest. If any stipulated remedy shall fail in its essential purpose, Balon shall refund the purchase price of such product, without interest, as the sole and exclusive remedy for any and all claims whether in contract, strict liability, tort or otherwise.

THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT. IN NO EVENT SHALL BALON BE LIABLE FOR ANY DAMAGES OF ANY KIND OR NATURE IN EXCESS OF THE PURCHASE PRICE OF THE PRODUCT(S) ALLEGED TO BE DEFECTIVE, INCLUDING BUT NOT LIMITED TO ANY CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES, LOSS OF ANTICIPATED PROFITS, LOSS OF USE OF EQUIPMENT OR OF ANY INSTALLATION, SYSTEM OR FACILITY INTO OR AT WHICH BALON'S PRODUCT(S) MAY BE USED OR INSTALLED. PROVIDED, HOWEVER, BALON SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE OF ANY KIND OR NATURE INCLUDING BUT NOT LIMITED TO ANY CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES IF THE PRODUCT IS: USED IN A SERVICE FOR WHICH IT WAS NOT MANUFACTURED; SUBJECTED TO PRESSURE IN EXCESS OF THE MAXIMUM OPERATING PRESSURE FOR SUCH PRODUCT AS DETERMINED BY BALON IN ITS SOLE DISCRETION; TAMPERED WITH OR ALTERED BY ANYONE OTHER THAN AN AUTHORIZED REPRESENTATIVE OF BALON; OR, NOT MAINTAINED IN STRICT ACCORDANCE WITH BALON'S RECOMMENDED MAINTENANCE PROCEDURES.

This Limited Warranty may only be altered, amended, expanded, modified, rescinded or terminated in writing signed by an authorized officer of Balon.

Not Intended for Nuclear Use: The products sold hereunder are not designed or manufactured for use in or with any atomic installation or activity.

Design Changes: Balon, in its sole discretion, shall have the right to manufacture the products provided hereunder as far in advance of its estimated shipping schedule as it deems appropriate. Balon expressly reserves the right to change or modify the design and construction of any product in the course of its manufacturing process without incurring any obligation or liability to furnish or install such changes, modifications or improvements to products previously or subsequently sold.

Indemnification: Buyer agrees to hold Balon and its affiliates and their respective agents, directors, employees, officers and shareholders harmless from any and all attorneys' fees, claims, damages, expert witness fees, fines, litigation costs, losses and remediation expenses to real or personal property, arising in whole or in part from the discharge, escape, loss or spill of hydrocarbons, hazardous waste or other pollutants, regardless of whether such discharge, escape, loss or spill either results from or arises out of the negligence or sole negligence of Balon, its affiliates or their respective agents, directors, employees, officers and shareholders or results from or arises out of any defect in the design or manufacture of Balon's products or results from or arises out of a failure by Balon to warn against any foreseeable danger. Buyer acknowledges and agrees that this indemnity shall apply both to property owned or controlled by Buyer and property owned or controlled by any third party.

Modification, Rescission and Waiver: Balon's Terms and Conditions of Sale herein may only be amended, modified or rescinded by a written instrument signed by an authorized officer of Balon at its office in Oklahoma City, Oklahoma that expressly states as its purpose to amend, modify or rescind these Terms and Conditions of Sale in whole or in part. Failure by Balon to insist in any one or more instances upon the performance of any of these Terms and Conditions of Sale or the failure of Balon to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such term, condition, or right hereunder and shall not affect Balon's right to insist upon strict performance and compliance with regard to any unexecuted portions of this contract or future performance of these terms and conditions. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Choice of Law, Forum and Venue: These Terms and Conditions of Sales shall for all purposes be governed by and interpreted and enforced in accordance with the laws of the State of Oklahoma, without reference to or application of any conflict of laws provision which would direct the application of the law of any other jurisdiction. Buyer agrees (i) not to file or institute any action, lawsuit or proceeding asserting any claim, defense, offset or right against Balon or any of its affiliates or any of their respective agents, directors, employees, officers or shareholders that relates in any way to any product sold or service supplied by Balon or to these Terms and Conditions of Sale (an "Action") before any court, tribunal forum or venue other than the state or federal district courts located within Oklahoma County, Oklahoma (collectively, the "Oklahoma Courts") and (ii) to submit, without objection, in any Action to the in personal jurisdiction of the Oklahoma Courts.