

GENERAL. Acceptance of this Proposal is expressly conditioned upon Buyer's assent to the Thermodyne Foodservice Products, Inc. (Tdyne) Conditions of Sale as set forth below and this Proposal may not be assigned. Tdyne agrees to furnish the equipment and services only upon these conditions. The Proposal and the following conditions shall constitute the entire agreement between Tdyne and Buyer, notwithstanding the terms and conditions of any purchase order of the Buyer. Any changes to this Proposal or to the Conditions of Sale shall be reduced to writing and agreed to by Tdyne.

DELIVERY. All equipment manufactured, assembled or warehoused in the continental United States is delivered F.O.B. shipping point. Where the scheduled delivery of equipment is delayed by Buyer or by Force Majeure, Tdyne may deliver the equipment by moving it to storage for the account of and at the risk of Buyer. Shipping dates are based upon prompt receipt of all necessary information and approvals from Buyer. All delivery dates are approximate. Claims for shortages or other errors in delivery must be made in writing to Tdyne within ten days of delivery.

PAYMENT - TITLE. Except as set forth in the proposal for this order or otherwise agreed to by Tdyne in writing, payment terms are net 30 days from date of shipment. If Buyer delays delivery, payment shall become due on the date Tdyne is prepared to ship. If payments are not made when due, Buyer shall pay a late charge equal to 1 ½% per month (18% per annum) on all such overdue amounts. Buyer shall pay attorney fees and court costs incurred by Tdyne in collection of overdue payments. Title to the equipment sold shall remain with Tdyne until fully paid for in cash.

FORCE MAJEURE. Tdyne shall not be liable for loss, damage, or delay, nor be deemed to be in default from causes beyond its reasonable control or from fire, strikes, floods, tornados, earthquakes, hurricanes, war, sabotage, labor difficulties, act or omission of any governmental authority, compliance with import or export regulations, insurrection, riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials or manufacturing facilities from usual sources, or from delays in the performance of its suppliers due to any of the foregoing causes. In the event of delay due to any such cause, the time for performance will be extended by a period of time equal to the time lost by reason of such delay and other affected contract provisions shall be equitably adjusted.

EQUIPMENT WARRANTY. Tdyne warrants that the equipment shall be free from defects in material and workmanship for a period of two years from the date of delivery. Should any failure to conform to the applicable warranty appear during the specified period, Tdyne will repair, replace or modify the defective part or parts. Repairs or replacements pursuant to the warranty shall not extend the original equipment warranty period. Tdyne shall not be responsible for providing working access to the defect. Tdyne warrants that the services of its personnel, if provided, will be performed in a workmanlike manner. Should a failure to conform arise during the applicable warranty period, Buyer agrees to promptly notify Tdyne to arrange for service of the defective part. This warranty shall not apply to any equipment or parts, which have been improperly installed, repaired or altered, have been subjected to misuse, negligence or accident; or have been used in a manner contrary to Tdyne operating and maintenance procedures. The above warranties and remedies are exclusive and in lieu of any and all representations, specifications, warranties and remedies either express or implied, herein or elsewhere, or which might arise under law or equity or custom of trade including without limitation warranties of merchantability and of fitness of a specified or intended purpose. The remedy specified represents the sole liability of Tdyne and the sole remedy of the Buyer with respect to or arising out of the equipment or services whether based on contract, tort (including negligence and strict liability), or otherwise.

LIMITATIONS OF LIABILITY. In no event shall Tdyne or its suppliers be liable, whether arising under performance of this contract, breach of this contract, or otherwise, for loss of anticipated profits, loss by reason of shutdown, non-operation, increased expense of operation, service interruptions, product loss, cost of money, loss of use of capital or revenue, or for any special, incidental or consequential loss or damage. Tdyne's liability on any claim of any kind, including negligence or strict liability, for any loss or damage arising out of, or resulting from this contract, or from its performance or breach, or from the manufacture, sale, delivery, resale, installation, startup or inspection, repair, operation, or use of any equipment covered by or furnished under this contract shall in no case exceed the purchase price allocable to the equipment, part, or service which gives rise to the claim. In no event, regardless of cause, shall Tdyne assume responsibility for or be liable for penalties or penalty clauses of any kind or for indemnification of customer or others for costs, damages, or expenses each arising out of or related to the goods or services of this order.

TAXES. The price does not include any federal, state or local property, sales, use, excise, gross receipts, franchise, or other like taxes which may now or hereafter be applicable to or imposed upon or with respect to the transaction, the property, its sale, its value or its use, or any services performed in connection herewith. Buyer agrees to pay or reimburse any such taxes which Tdyne or its suppliers are required to pay or collect.

PROPRIETARY INFORMATION - CONFIDENTIALITY. Any specifications, design, drawings, plans, notes, technical data or other information or materials of Tdyne submitted to the Buyer remain the exclusive property of Tdyne and may not, without its consent, be copied or communicated to a third party.

CANCELLATION. Any order or contract may be terminated by Buyer only upon written notice and payment of reasonable and proper termination charges, including but not limited to all costs identified to the order or contract incurred up to the later of the date of the notice or Tdyne's receipt of the notice of termination and all charges incurred by Tdyne in respect to the termination, plus 10% of the final net selling price.

PARTIAL INVALIDITY. If any provision herein or portion thereof shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions or portion thereof, but these Conditions of Sale shall be construed as if such invalid or unenforceable provision or portion thereof had never been contained herein.

CHOICE OF LAW. The laws of the State of Indiana shall govern this agreement.

INVENTIONS, PATENTS, TRADEMARKS, COPYRIGHTS. Tdyne warrants that the equipment purchased hereunder shall be delivered free of rightful claims for infringement of any United States patent or trademark, provided however that where equipment is manufactured from patterns, plans, drawings or specifications furnished by Buyer, Buyer shall indemnify Tdyne against and hold harmless Tdyne from all loss, damage, and expense arising out of any suit or claim against Tdyne for infringement of any patent, trademark, or copyright because of Tdyne's manufacture of such equipment or because of the use or sale of such equipment by any person. All right, title and interest in any inventions, developments, improvements or modifications of or for equipment or services furnished to the Buyer shall remain with Tdyne unless otherwise agreed to in writing between the parties.

I acknowledge and agree to the terms set forth in this agreement.

Initial: _____