

Standard Terms & Conditions of Sale – Effective 12/07

1. **PRICES:** Prices and discounts are subject to change without notice. Gefran, Inc. (“Gefran”) reserves the right to correct clerical and stenographic errors at any time. The minimum order value is one hundred (\$100.00) Dollars (U.S.) net. Quoted prices are subject to review and revisions by Gefran thirty (30) days after the date of issue. Any portion of the price, which is not paid in accordance with the terms of payment herein stated, shall bear interest from the due date at the rate of 1 ½% per month (18% per annum) until paid.
2. **PACKING:** All pricing includes Gefran’s standard packing for domestic shipment. Additional expense for special packing or overseas shipments shall be paid by the purchaser and will be quoted upon request. No allowance will be made in the purchase price in lieu of packing.
3. **TRANSPORTATION:** Unless provided in writing to the contrary, products, parts and systems are sold FOB first point of shipment with freight collect. Partial shipments shall be permitted and Gefran may invoice each shipment separately.
4. **TITLE :** The purchaser must file claims with the carrier for non-delivery of products, parts and systems and for damages thereto. Gefran’s responsibility therefore shall cease when the carrier signs for and accepts the shipment. Title to and risk of loss in the goods shall pass to purchaser upon delivery to carrier at the shipping point notwithstanding the terms of shipment specified herein.
5. **SHIPPING DATES:** Any dates or schedules which may be specified for the delivery of the products covered hereby have been stated only approximately and are estimated from the date of receipt of Purchaser’s order. Gefran shall not incur any liability, either direct or indirect, nor shall any order be canceled because or as a result of any delays in meeting such dates or schedules.
6. **DELAY:** Gefran shall not be responsible or liable for any delay or failure to deliver any or all of the goods as occasioned by act of God; war; riot; insurrection; fire; flood; embargo; explosion; accident; breakdown of machinery or equipment; shortage or inability to obtain fuel, power, raw materials, equipment, transportation, or the goods themselves without litigation at usual prices or from usual sources; good faith compliance with any law, regulation, standard order, rule, or recommendation made by any governmental authority; strike or labor controversy (Gefran shall not be required to settle any labor matter against its own best judgment); any cause or circumstance beyond Gefran’s reasonable control or any other cause or circumstances, whether similar or dissimilar to the foregoing, which make impracticable the production, transportation, or delivery of the goods or any material used in or in connection with their production and the contracted quantity shall be reduced to the extent of the quantities not delivered due to any such cause or circumstance. In no event shall Gefran be obligated to purchase goods, to deliver from any plant or facility other than the shipping point specified herein, or to replace the quantities not delivered due to any such cause or circumstance.
7. **PURCHASER DELAYS:** In the event that the purchaser wishes to delay shipment or cause any other delay such as lack of shipping instructions, Gefran shall invoice the purchaser for the full contract price on the date of the originally scheduled shipment. Gefran will store the equipment at the purchaser’s risk and expense. Shipment delays beyond thirty (30) days after the original shipment date will be assessed a five percent (5%) surcharge for each month or part thereof. If manufacturing of a system is suspended by the purchaser, the purchaser will be invoiced to cover expenses incurred to date notice of such suspension is received.
8. **ACCEPTANCE AND CANCELLATION OF ORDERS:** No contract between Gefran and the purchaser shall be deemed in existence until Gefran has acknowledged the purchaser’s order in writing. Gefran reserves the right to refuse any order for any reason. Purchase orders accepted by Gefran on which Gefran incurred expense may not be cancelled without Gefran’s consent and on terms that will relieve Gefran of any costs due to conditional cancellations.
9. **CANCELLATION BY PURCHASER:** Any cancellation by the purchaser of any order or contract between the purchaser and Gefran must be received in written form and be accepted by Gefran. In the event of any cancellation of any order, in part or in whole, the purchaser shall pay to Gefran the reasonable costs, expenses, or damages incurred, including, but not limited to, engineering expense, production and materials expense and costs incurred by Gefran due to cancellation of orders to outside suppliers and contractors and materials bought specifically to fulfill the subject cancellation order.

If a cancellation is accepted by Gefran, the following charges will be assessed (in addition to the above listed charges) as follows:

  - a. Standard Gefran Products Listed in Gefran’s Current Catalog:
    - (1) If the order has not been entered – no charge.
    - (2) If the order has been entered and Gefran is notified of the intent to cancel in writing more than thirty (30) days before the schedule shipment date – 15%.
      - Between thirty (30) to fifteen (15) days before the shipment date – 25%
      - Less than fifteen (15) days before shipment date – 50%.
  - b. Systems or Products Not Listed in Gefran’s Current Catalog:
    - (1) If order has not been entered – no charge.
    - (2) If order has been entered – 10%.
      - If engineering has been started – 15%.
      - For orders in production, cancellation charges will be determined by the job status of build.
10. **ORDER CHANGES AND SCHEDULES:**
  - 10.1 All equipment ordered from Gefran must be shipped within one hundred eighty (180) days from the date of order entry unless agreed in writing by Gefran for longer delivery terms if delivery is to be changed within the 180 day period. Gefran must be notified in writing by the purchaser, a minimum of thirty (30) days before the scheduled ship date. If delivery is to be extended beyond the 180 day period, Gefran reserves the right to revise the price levels in effect at the time of shipment. No deliveries may be scheduled or extended in excess of 360 days from the date of order entry. Refer to section 5 and 7.
  - 10.2 Any changes with regard to content or equipment specification made by purchaser must be received in writing at least thirty (30) days in advance of the scheduled ship date. In the event of any such change, Gefran shall be entitled to revise the price and delivery schedule under such changes.

**11. TERMS OF PAYMENT:**

11.1 Standard terms of payment are net thirty (30) days from the date of Gefran invoice to the purchaser. For invoice purposes, delivery shall be deemed complete at the time that the products are shipped from Gefran. Start up or commissioning costs, if purchased by the customer, are separate and unrelated to invoicing of, and payment due for, the equipment. No withholding, for any reason, of any part of the invoice cost shall be made without written acceptance of such terms by Gefran. The purchaser shall remit payment to:

Gefran, Inc.  
8 Lowell Avenue  
Winchester, MA 01890  
Attn: Accounts Receivable

11.2 Credit Card purchases are accepted at the factory. Freight charges will be added as applicable.

11.3 The purchaser shall use the following to remit payment via wire transfer (must be done prior to shipment):

For Deposit to the Account of:  
Company Name: Gefran, Inc.  
Bank: Citizens Bank  
Account: 1309365625  
ABA: 211070175

11.4 In the event Gefran undertakes any collections efforts for the amounts due hereunder, the purchaser will be responsible for all such collection costs and fees arising from Gefran's efforts to collect any unpaid amounts, including but not limited to attorney fees.

12. **ADVANCE PAYMENTS:** If in the judgment of Gefran, the financial condition of the purchaser at any time does not, justify continuation of production or shipment on the terms of payment originally specified, Gefran may demand full or partial payment in advance or cancel the order. Purchaser is liable for cancellation charges if advance payment is refused.

13. **TAXES:** Gefran's quotations, or published price lists do not include any applicable sales, use, excise or similar taxes. The amount of any such tax which Gefran may be required to pay or collect will be added to each invoice unless the purchaser has furnished Gefran with the appropriate Tax Exemption Certificate acceptable to the taxing authorities in regard to such tax.

14. **DATA, DESIGNS AND SPECIFICATIONS:** Gefran reserves the right to change designs and specifications without notice. The weights listed are approximate and sufficiently accurate for most uses.

15. **WARRANTY:** Except as otherwise specifically stated herein, Gefran warranties to the purchaser that products furnished hereunder are only to conform to specifications and are free from defects in material and workmanship under normal use and maintenance for a period of three (3) years from the date of shipment from Gefran. Gefran makes no warranty concerning products manufactured by other parties (branded with other than the Gefran brand) and Purchaser receives no warranties other than those warranties provided by the manufacturer and transferable to the purchaser. Gefran's sole obligation under this warranty shall be to repair or replace any defective product or part of which is found at Gefran's discretion to be defective, provided the product or part

involved is returned to Gefran at a location designated by Gefran, transportation charges prepaid by the purchaser, and that notice of any such defect, including a reasonably detailed description of the problem or difficulty experienced, must be made in writing to Gefran within 30 calendar days following discovery thereof and prior to the expiration of the warranty period. The warranties provided by Gefran specifically exclude and /or are voided by the following:

- a. Products and parts damaged in shipment through no fault of Gefran:
- b. Failures due to operation of products beyond rated capacities, in connection with equipment not approved by Gefran, or in any otherwise improper manner:
- c. Failures due to misapplication, abuse, improper installation, or abnormal conditions of temperature, humidity, abrasives, dirt, corrosive matter, or,
- d. Products, parts and systems, which have in any way been tampered with or altered by any party other than an, authorized Gefran representative.

16. **LIMITATION OF LIABILITY:** THE LIMITED WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND CONSTITUTES THE PURCHASER'S SOLE REMEDY. ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED. GEFRAN MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE OR NON-INFRINGEMENT. IN NO EVENT, SHALL GEFRAN BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS, IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH THE USE, OR INABILITY TO USE, THE PRODUCT OR SERVICES FURNISHED UNDER THIS AGREEMENT, WHETHER BASED UPON WARRANTY, CONTRACT OR NEGLIGENCE. ANY LIABILITY ON THE PART OF GEFRAN SHALL BE LIMITED TO REPLACEMENT OR REPAIR OF THE PRODUCT, WITHOUT CHARGE, AT OUR FACILITY.

17. **REJECTIONS AND RETURNED PRODUCTS:** Claims for incorrect products must be filed in writing within thirty (30) days from delivery at purchaser's place of business. No products may be returned without first obtaining written approval from Gefran. No claim will be allowed, nor credit given, for any products returned without such written approval, returned in other than "Like New" condition, in the original packaging (including accessories, manuals, cd's etc...), that have been mounted, connections made to, or power applied to. Special order and/or non-stock material is not returnable. All returned products must have a return authorization # attached and are subject to retest/restock charges. Credit, if any, for returned material, is at the sole discretion of Gefran. Purchaser's failure to give Gefran written notice of any claim within the applicable time period shall constitute an absolute and unconditional waiver of such claim. In the event payment terms are not met by the purchaser, purchaser will return the goods to Gefran or make the goods available to be obtained by Gefran at purchaser's expense immediately upon receiving written demand from Gefran.

18. **INDEMNITY:** Purchaser shall defend, indemnify, and hold Gefran harmless from and against all claims, liabilities, costs, attorney's fees, and expenses (including but not limited to those related to injury to or death) arising from or connected with the possession, handling, processing, or use of the goods by purchaser or others.

Gefran may participate in the defense of any such claims for the further protection of its own interests.

19. **WAIVER:** No waiver by either party of any breach of any of the terms or conditions contained herein shall be construed as a waiver of any succeeding breach of the same or of any other term or condition herein. Nothing contained herein shall limit the remedies of Gefran in the event of purchaser's breach of any term or condition contained herein.
20. **ENTIRE AGREEMENT:** To the extent that the purchaser is the end user of the product, this contract supersedes all prior contracts and constitutes the entire agreement and understanding between the parties covering the sale and purchase of the goods. No modification hereof shall be effected by the use of purchase order acknowledgment, acceptance, or other forms at variance with or in addition to these terms and conditions no agreement or understanding in any way purporting to modify these terms or conditions whether contained in purchaser's purchase or shipping release forms or elsewhere shall be binding on Gefran without Gefran's written consent.
21. **ASSIGNMENT:** This contract shall not be assigned by purchaser without the prior written consent of Gefran.
22. **GOVERNING LAW:** This contract shall be governed by and construed under the laws of the Commonwealth of Massachusetts, without regard to its conflicts of laws provisions.