

LUCAS INDUSTRIES

CUSTOMER ORDER TERMS AND CONDITIONS

1. **GENERAL CONDITIONS** All sales are subject to the terms and conditions stated herein. Additional terms proposed by the buyer, (referred to hereafter as the Customer) shall not become part of this Contract unless confirmed in writing by Lucas Industries. These terms and conditions shall supersede any provisions, terms and conditions contained on any confirmation, order or other writing the Customer may give or receive, and the rights of the parties shall be governed exclusively by the provisions, terms and conditions hereof. Lucas Industries makes no representations or warranties concerning this order except as are expressly contained herein, and this order may not be changed or modified orally.
2. **PRICE QUOTATIONS ON GOODS OR SERVICES ARE FIRM FOR THIRTY (30) DAYS FROM THE DATE ON THE QUOTATION.** Any goods the Customer either requests or requires subsequent to thirty days from said date are subject to price changes.
3. **ORDER (I)** Acceptance of LUCAS INDUSTRIES' quotation as evidenced by the Customer's order, constitutes agreement to LUCAS INDUSTRIES' conditions stated herein. **(II)** All orders or contracts are accepted with the understanding that they are subject to LUCAS INDUSTRIES' ability to obtain the necessary goods, and all orders or contracts as well as shipments applicable thereto are subject to LUCAS INDUSTRIES' current schedules, government regulations, orders, directives and restrictions that may be in effect from time to time. **(III)** The Customer does not acquire any right, title or interest in any tooling, set-up, drawings, design information, or invention resulting therefrom unless otherwise agreed upon and stated in writing. LUCAS INDUSTRIES retains title and copyright in all such specifications. The Customer agrees to keep all such specifications in strict confidence. LUCAS INDUSTRIES agrees not to disclose any of the Customer's specifications which the Customer has stated to be proprietary and/or confidential.
4. **EXPORT CONTROL (I)** If products or technical data purchased or received under these Terms and Conditions are subject to export control laws, Customer shall comply with all applicable United States export control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2799aa-2, the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq., the Export Administration Act, 50 U.S.C. app. 2401-2420, the Export Administration Regulations, 15 C.F.R. 730-774, and the regulations of the Office of Foreign Assets Control (31 C.F.R. Parts 500-595). **(II)** Customer represents and warrants that it is not on the Denied Persons, Specially Designated Nationals or Debarred Persons List and is not otherwise prohibited by law from purchasing the products or services hereunder. **(III)** Customer shall be responsible to obtain any license to export, re-export or import as may be required. **(IV)** Lucas Industries requires export classification be provided by the Customer for all controlled technical data, hardware and/or software upon order receipt. Blanket ITAR/EAR statements that exclude proper classification will not be accepted. Technical data, hardware and/or software without classification will be handled as proprietary only.
5. **PRICE & PAYMENT (I)** Unless otherwise expressly agreed, prices stated are F.O.B., North Springfield, VT. **(II)** Prices do not include any federal, state or other tax, such as sales, use or transaction. Wherever applicable, any tax, or taxes, will be added to the invoice as a separate charge to be paid by the Customer. **(III)** Prices are based on customs duties and rates or exchange in effect at the time of quotation and may be revised to those actually incurred by LUCAS INDUSTRIES. **(IV)** Prices are subject to change if counterfeit prevention controls are required. **(V)** Terms of payment are net 30 days from the date of shipment, unless otherwise expressly agreed. The Customer is not entitled to offset or to withhold money on the grounds of any counterclaim. **(VI)** Interest at the rate of 1% per month is charged on any payment not received by the due date indicated herein. No reminder or notification of default is required. LUCAS INDUSTRIES reserves all further remedies available on account of breach by default in payments. **(VII)** If LUCAS INDUSTRIES is required, as part of the terms of this contract, to conduct trial runs or tests of the goods, the price of any raw materials used in such tests or trials shall not be included in the price of the goods. The Customer shall have the option to provide such raw materials to LUCAS INDUSTRIES free of charge.
6. **SHIPPING & DELIVERY (I)** Unless stated to the contrary on the face hereof, all goods furnished hereunder will be shipped collect to the Customer. Charges for shipping may not reflect net transportation costs paid by LUCAS INDUSTRIES. **(II)** The goods shall be considered to be delivered on the date that the goods leave the premises of LUCAS INDUSTRIES, or on the date that the buyer is notified that the goods are ready for shipment, whichever occurs first. **(III)** All shipping dates are tentative. LUCAS INDUSTRIES will not be responsible for delays or non-performance directly or indirectly caused by government regulations or requirements, acts of God, unavailability of energy and/or materials or supplies, work stoppages, slow downs, boycotts, and other causes (whether or not similar in nature to any of these hereinbefore specified) beyond LUCAS INDUSTRIES' reasonable control. **(IV)** If delivery of the goods is delayed for reasons within the control of LUCAS INDUSTRIES, and the Customer suffers loss thereby, the Customer may demand compensation for the delay, to commence with the beginning of the fourth week following the original delivery date. Such demand for compensation by the Customer shall be the Customer's exclusive remedy for damages incurred on account of such delay. Compensation for each full week of delay shall amount to one-half of one percent of the price of the whole delivery, but in no case is the total compensation to exceed five percent (5%). **(V)** If shipment is delayed on the instruction of the Customer, the cost of storage, beginning thirty (30) days from the date that the goods were ready for shipment, will be invoiced to the Customer. If the goods are stored on the premises of LUCAS INDUSTRIES, the cost of storage will be at least one-half of one percent of the invoice price per month. **(VI)** The observance of the term of delivery is contingent upon the performance of the contractual duties of the Customer.

(VII) LUCAS INDUSTRIES reserves the right to deliver in partial shipments.

7. **TRANSFER OF RISK OF LOSS** (I) All shipments are F.O.B. LUCAS INDUSTRIES' premises. The risk of loss is transferred to the Customer when LUCAS INDUSTRIES puts the goods into the possession of the carrier. (II) Upon Customer's request and at the Customer's expense, LUCAS INDUSTRIES will insure a shipment against breakage, fire, water, theft and transport risks.
8. **ACCEPTANCE** (I) Unless otherwise expressly provided, orders are accepted based on inspection and acceptance at the works of LUCAS INDUSTRIES. If the Customer does not wish to send a representative to the factory to inspect the goods, LUCAS INDUSTRIES will on request furnish a certified report to the Customer that the goods were inspected and/or tested and were found to have met the order specifications. The Customer's acceptance shall be deemed a complete discharge of all LUCAS INDUSTRIES' obligations, and after such acceptance, the Customer shall have no right to revoke such acceptance for any reason. (II) A definite acceptance is established when:
 1. Acceptance takes place in LUCAS INDUSTRIES' facility, or elsewhere in the presence of LUCAS INDUSTRIES' technician and the Customer does not raise objection then and there.
 2. Acceptance does not take place in LUCAS INDUSTRIES' facility, no LUCAS INDUSTRIES technician is present, and the Customer has not raised objection within four (4) weeks after delivery.
9. **BANKRUPTCY / INSOLVENCY** (I) LUCAS INDUSTRIES shall have the right to suspend or cancel this Agreement at any time upon Customer making an assignment for the benefit of creditors or becoming bankrupt or insolvent, or upon a petition being filed in a court of competent jurisdiction proposing the appointment of a receiver or that the Customer be adjudicated, bankrupt or insolvent or recognized under the provisions of any applicable bankruptcy or insolvency act.
10. **TITLE RESERVATION** (I) The parties expressly agree that LUCAS INDUSTRIES reserves title in all shipped goods until all payments becoming due under the contract are received. (II) At any time prior to receipt of all payments due under the contract, LUCAS INDUSTRIES may demand that the Customer furnish without delay any proof that insurance is in effect covering the goods against set fire, water theft or other casualty. If such proof is not provided, LUCAS INDUSTRIES is entitled to insure the goods at the Customer's expense, and the cost of insurance shall be due and payable concurrently with the payment under the contract. (III) The Customer shall not pledge or transfer as security any delivered goods in which LUCAS INDUSTRIES has reserved title. The Customer shall not dispose of such goods in any way outside its normal course of business. The Customer will notify LUCAS INDUSTRIES without delay if any attachment, seizure, or other act prejudicial to the rights of LUCAS INDUSTRIES is effected by a third party. The Customer will provide LUCAS INDUSTRIES with all information and documentation required by LUCAS INDUSTRIES to safeguard its rights. The Customer will without delay notify the person executing such attachments or seizure that LUCAS INDUSTRIES has title in the goods. (IV) In the event that the Customer sells any goods which have been delivered by LUCAS INDUSTRIES but have not been paid for in full, the Customer assigns to LUCAS INDUSTRIES all claims against the purchaser of said goods, until all amounts due LUCAS INDUSTRIES are paid in full. (V) LUCAS INDUSTRIES shall have the right, in addition to all others it may possess, at any time, for credit reasons or because of the Customer's default or defaults, to withhold shipments in whole or in part, and to recall goods in transit, retake same, and repossess all goods which may be stored with LUCAS INDUSTRIES for the Customer's account, without the necessity of taking any other proceedings. The Customer consents that all the merchandise so recalled, retaken or repossessed shall become the absolute property of LUCAS INDUSTRIES provided the Customer is given

full credit therefore. The foregoing shall not be construed as limiting in any manner any other of the rights or remedies available to LUCAS INDUSTRIES because of any default of the Customer. (VI) If the Customer is in default of payment, LUCAS INDUSTRIES is entitled to demand the immediate surrender of the delivered goods in which LUCAS INDUSTRIES has reserved title. The Customer waives any right of retention in this circumstance. LUCAS INDUSTRIES has the right to recover the value of the goods by resale in any commercially reasonable manner. (VII) If the Customer is in default of payment and has sold the goods in which LUCAS INDUSTRIES has reserved title to a third party, LUCAS INDUSTRIES is entitled to notify the third party of the assignment pursuant to section (IV) of this section and to take any necessary action to realize the claim.

RIGHTS OF THE CUSTOMER (I) The Customer may cancel the Contract if delivery of the goods is proved to be permanently and completely impossible for LUCAS INDUSTRIES prior to the passing of the risk. (II) In the event of breach or repudiation of this agreement by LUCAS INDUSTRIES, the Customer shall not be entitled to recover incidental or consequential damages including those arising upon any losses, costs, expenses or damages (including by the way of example but not by way of limitation loss of profits, liabilities of Customer to third parties, liabilities of the Customer to its customers, damages to property and all other special or consequential damage whether direct or indirect). In addition, the Customer shall not be entitled to recover any costs for materials or labor expended. The sole exclusive remedy of the Customer in the event of a material breach or repudiation of this agreement by LUCAS INDUSTRIES shall be a return of all funds of the Customer advanced to LUCAS INDUSTRIES on the purchase price.

12. **PLACES OF PERFORMANCE AND JURISDICTION** (I) In addition to the rights and remedies reserved herein, LUCAS INDUSTRIES shall have all rights, and remedies conferred by law and shall not be required to proceed with performance of the contract arising here from if Customer is in default to LUCAS INDUSTRIES under this or any other contract. This Agreement is made in the state of Vermont, USA. This Contract shall be interpreted in accordance with the laws of Vermont. The Customer agrees to submit to the jurisdiction of Vermont in all matters arising under this Contract.