



**FIVE STAR ELECTRIC**  
POWERED BY INNOVATION

## Terms and Conditions

These terms and conditions govern all sales and shipments of equipment, services and products (including parts and accessories). Five Star Electric hereby gives notice of its objection to any different or additional terms and conditions except for such as may be expressly accepted by it in writing.

### **Standard Terms of Payment**

Unless otherwise specified in the applicable purchase order terms, all Five Star Electric invoices shall be paid within thirty (30) days of the date of invoice.

If the purchaser fails to pay the invoice when due, Five Star Electric shall be entitled to suspend all deliveries, start-up, service or warranties response under this or any other contract with purchaser, except upon prior receipt of satisfactory security for or cash in payment of any such invoice. Failure on the part of purchaser to pay invoices when due shall at the option of Five Star Electric constitute a default under this contract.

A service charge, the lesser of the highest rate allowed by law or 2% per month, or fraction thereof, for a maximum charge of 24% per annum will be charged on all overdue accounts.

### **Warranty**

Warranty covers defects in workmanship and materials only. Warranty does not include transportation, labor, or freight charges associated. Warranty is limited to the value of the Five Star Electric supplied equipment. The standard Five Star Electric terms and conditions of sale are attached herewith and will apply to any purchase order resulting from this proposal unless other terms and conditions are specifically negotiated in written form and signed as acceptable by Five Star Electric.

If within one year from date of start-up, but not more than eighteen months from date of shipment, should any failure to conform with this warranty appear within such time, Five Star Electric shall, if given prompt notice by purchaser, correct such nonconformity, at its option, either by repair or replacement F.O.B. repair facility or by refund of the purchase price of the nonconforming product or part. Return of products to Five Star Electric pursuant to this paragraph shall be at purchaser's risk and expense. The foregoing warranty is exclusive and in lieu of all other warranties of quality, expressed or implied, and all other warranties, including any warranty of merchantability or fitness for a particular purpose are hereby disclaimed.

Correction of nonconformities in the manner and for the period of time provided above shall be purchaser's exclusive remedy and shall constitute fulfillment of all liabilities of Five Star Electric whether in warranty, strict liability, contract, negligence, tort or otherwise with respect to any nonconformance or defect in the product.

The foregoing warranty shall not apply to any product which has been: a) improperly repaired or altered, B) Subjected to misuse, misapplication, negligence or accident, c) used in a manner contrary to manufacturer's directions.

### **Limitation of Liability**

Five Star Electric' liability to purchaser on any claim in connection with the product shall not exceed the purchase price of the product which gives rise to the claim.

IN NO EVENT SHALL FIVE STAR ELECTRIC BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES whether in warranty, contract, strict liability, tort, negligence or otherwise including but not limited to loss of profits or revenue, loss of use of the product or any associated product, cost of capital, cost of substitute products, facilities or services, downtime costs or claims of customers of the purchaser for such or other damages.



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Except as prohibited by law, all causes of action against Five Star Electric shall expire unless brought within one year of the time of accrual thereof, FIVE STAR ELECTRIC NEITHER ASSUMES NOR AUTHORIZES ANYONE TO ASSUME FOR IT ANY OTHER OR FURTHER LIABILITY THAN AS SET OUT ABOVE.

## **Prices**

Prices are subject to change without notice. Prices will be the prices in effect at the time of shipment by Five Star Electric. In the event of a price change, the effective date of the change will be the date shown on the new price discount sheets. However, where a price change is made by letter or telegram, the effective date will be given as part of the announcement.

## **Freight, Shipment and Routing**

Shipment is F.O.B. Factory San Antonio, Texas. If prepaid, the amount will be added to the invoice.

## **Taxes**

The price does not include and Federal, state or local property, license, privilege, sales, use, excise, gross receipts or other like taxes which may now or hereafter be applicable. Payment by Five Star Electric of any such taxes shall be for the account of purchaser.

## **Payments**

Five Star Electric may require full or partial payment in advance if, in its sole judgment, the financial condition of the purchaser, at any time prior to delivery, does not merit terms of payment specified.

If shipments are delayed by the purchaser or by reason of any of the causes referred to in the paragraph entitled "Excusable Delay", payments shall become due from the date when Five Star Electric is prepared to make shipment. Products held for the purchaser as a result of such delay shall be at the risk and expense of the purchaser.

## **Returns for Credit**

No returns for credit will be accepted unless Seller's permission has been obtained in each case in advance. Only sizes and designs taken from Seller's regular line which are in active demand can be accepted for credit. Credit will be based on invoiced price. Subject to deduction for handling and an additional deduction for handling and an additional deduction for expenses incurred in restoring goods to salable condition. Obsolete or specially manufactured goods can be accepted only to the extent of value to Seller in each case. No credit will be issued to other than the original purchaser. Credit for returns will be given toward future purchases. No cash credit will be awarded.

## **Delivery**

Delivery of products shall be FOB point of shipment regardless of transportation costs being "allowed", "prepaid" or "collect". Where the scheduled delivery of products and parts is delayed by the purchaser or by reason of any of the causes referred to in the paragraph entitled Excusable Delay, Five Star Electric may deliver such products by moving them to storage for the account of and at the risk of the purchaser. Shipping dates are approximate and are based upon prompt receipt of all necessary information from purchaser. Five Star Electric reserves the right to make delivery in installments.

## **Purchaser Pick-Up**

No allowance will be made in lieu of transportation charges if the purchaser accepts shipment at the factory, warehouse, or freight station. Transportation charges will not be deducted from the purchase price.



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**Excusable Delay**

Five Star Electric shall not be liable for loss, damage, detention or delay, nor be deemed to be in default from causes beyond its reasonable control, including without limitation, fire, flood, strike or other labor difficulty, act or omission of any governmental authority or of the purchaser, insurrection or riot, embargo, delays or shortage in transportation or inability to obtain necessary labor, materials or manufacturing facility from usual sources.

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

**Cancellation Charges**

If order is canceled prior to or at the time of issuance of submittals, cancellation charges are 20%. If order is canceled after approval of submittals and release to manufacture, cancellation charges are 30% plus reasonable charges for labor and non-reusable material. After notice of Ready-to-Ship, cancellation charges are 100%.

**Errors**

All clerical errors are subject to corrections.