

# SALES ORDER TERMS & CONDITIONS

## 1. ENTIRE AGREEMENT

The terms herein set forth and on the reverse shall constitute the entire and only agreement between the parties. No modification, waiver or discharge of this contract or any of its terms shall bind Seller unless in writing and signed by Seller's authorized representative. No salesman or agent of Seller has any authority to change, in any manner, the terms and conditions of these sales unless specifically empowered thereto in a writing duly signed by Seller.

## 2. PAYMENT

Is to be received by Seller at the address shown on reverse by the date shown under "terms" which shall commence running from the date of invoice. If Seller shall not receive payment by such date, Buyer agrees to pay to Seller in addition to the total amount then due reasonable attorney's fees in the amount of 25% of the amount then due and all costs and expenses of Seller attempting to collect such sum and a finance charge of 1-1/2% per month, or 18% per year, on the unpaid balance, commencing from the date payment was due until the balance is paid in full. Anything herein to the contrary notwithstanding, all sums due and owing to Seller and any interest thereon shall be immediately due and payable in full to Seller upon the occurrence of any of the following events: any transfer, whether in bulk or otherwise, or assignment of the business of Buyer, (of which Buyer hereby agrees to give Seller at least 30 days written notice), upon the failure by Buyer to give such notice to Seller, if any check tendered to Seller by Buyer is dishonored by the bank upon which it was drawn for any reason whatsoever, if a petition in bankruptcy is filed by or against Buyer or if Buyer makes a general assignment for the benefit of creditors, or if the property of Buyer shall be attached by any legal or equitable process. If Seller shall not receive written objection to any of these terms and conditions with ten (10) days from the date of this invoice, they shall be deemed accepted by Buyer.

## 3. ACCEPTANCE AND CLAIMS

Any goods ordered by Buyer which Seller must specially order shall not be returnable or exchangeable. Buyer shall notify Seller in writing with ten (10) days of receipt of the goods of any claim whatsoever concerning the goods. Such notice shall state with particularity each defect or problem with the goods and Buyer shall be precluded from relying on defects or problems not stated in the written notice as the basis for rejection or claiming breach. All goods shall be irrevocably accepted by Buyer ten (10) days after Buyer's receipt of the goods except for goods which are the subject of such written notice.

## 4. MANNER OF PAYMENT; SOLVENCY

Acceptance of any check, draft or any remittance except legal tender shall not constitute payment hereunder until such items are finally paid and until such time Seller shall be deemed to retain title to and a security interest in all goods for which such remittances may be tendered. Buyer hereby represents that he is solvent and on each delivery this

representation shall be deemed renewed unless notice to the contrary is given in writing by Buyer to Seller at or before delivery of goods.

## **5. RISK OF LOSS**

Risk of loss shall pass from Seller to Buyer upon receipt of the goods by Buyer, which shall be evidenced by the signature or other mark of acceptance of Buyer or Buyer's agent, employee, etc. on the reverse hereof, which shall bind Buyer.

## **6. WARRANTY**

SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AND NONE SHALL BE IMPLIED BY LAW; ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS HEREBY DISCLAIMED BY SELLER AND EXCLUDED FROM THE AGREEMENT. Final determination of the suitability of the goods for use contemplated by Buyer is the sole responsibility of Buyer and Seller shall have no responsibility in connection with such suitability. Seller's liability hereunder shall be limited to Seller exchanging or returning the goods in questions, which in no event shall exceed the contract price for such goods. This shall be the Buyer's sole remedy and shall be in lieu of any claim for damages including incidental and consequential damages, loss or expense. Buyer assumes all risk and liability for loss, damage or injury to persons or property of Buyer or other arising out of the use or possession of any goods sold hereunder.

## **7. NON-WAIVER; GOVERNING LAW**

Any failure or delay on the part of Seller to exercise any of its rights hereunder shall not constitute a waiver of Seller's rights to exercise same for that on any subsequent default. This agreement shall be governed by the laws of the State of New York.

## **8. Force Majeure**

Seller shall not be liable for any delay in or failure of performance hereunder due to any contingency beyond its reasonable control, including without limitation: an act of God; war; civil commotion; sabotage; labor dispute; explosion; fire; accident; downtime; power or equipment failure or outage; inability to obtain suitable or sufficient labor, pandemic, fuel, power, or material; delay of carrier; embargo; or any law, ordinance, rule, or regulation, whether valid or invalid.

## **9. Quantity Variance**

All orders sold in Feet, Meters, inches etc. will be shipped +/- 10% unless previously agreed to by Seller in writing.

## **10. Metal Adjustments**

BJG Whitmor/Wirenetics reserves the right to adjust pricing based on select metals including Gold, Silver, Nickel and Copper.