

# WARRANTY TERMS AND CONDITIONS

## CONDITIONS

McElroy Manufacturing, Inc. (McElroy) is unable and unwilling to assume the legal burdens placed upon it by language in a Buyer's purchase order or other order form. Therefore, McElroy specifically objects to and rejects any additional terms and conditions in conflict with these TERMS AND CONDITIONS, and such additional or conflicting terms shall not become part of the Contract. Therefore, all orders placed by Buyer and accepted by McElroy is on the condition that these TERMS AND CONDITIONS will apply and the additional terms and conditions of the Buyer shall not become part of the Contract. At all times and notwithstanding anything to contrary in these TERMS AND CONDITIONS or elsewhere, McElroy shall have the right to accept or reject (for any reason or no reason) one or more orders in whole or part from the Distributor.

## LIMITED WARRANTY

McElroy Manufacturing, Inc. (McElroy) warrants all products manufactured, sold and repaired by it to be free from defects in materials and workmanship, its obligations under this warranty being limited to repairing or replacing at its factory and new products, within 5 years after shipment, with the exception of purchased items (such as electronic devices, pumps, switches, etc.), in which case that manufacturer's warranty applies. Warranty applies when returned freight is prepaid and which, upon examination, shall disclose to have been defective. This warranty does not apply to any product or component which has been repaired or altered by anyone other than McElroy or has become damaged due to misuse, negligence or casualty, or has not been operated or maintained according to McElroy's printed instructions and warnings. This warranty is expressly in lieu of all other warranties expressed or implied. The remedies of the Buyer are the exclusive and sole remedies available and Buyer shall not be entitled to receive any incidental or consequential damages. Buyer waives the benefit of any rule that disclaimer of warranty shall be construed against McElroy and agrees that such disclaimers herein shall be construed liberally in favor of McElroy. **McElroy makes no other warranty of any kind whatever, express or implied; and all implied warranties or merchantability and fitness for a particular purpose which exceed the aforestated obligation are hereby disclaimed by McElroy.**

## TAXES AND DUTIES

All sales taxes applicable to this order and required to be collected by McElroy shall be added to the invoice unless an appropriate Exemption Certification is received. All other taxes and duties shall be responsibility of and paid by the Buyer.

## DELIVER, SHIPMENT AND RISK OF LOSS

Unless otherwise agreed to by McElroy, all shipment of goods shall be F.O.B. Tulsa, Oklahoma. All shipments will be made freight collect in accordance with carrier instructions supplied by buyer. In the absence of such instructions, McElroy will select what is, in its opinion, the most satisfactory routing. McElroy shall not be liable for either delays in deliveries or total failure to deliver due to any cause or event beyond McElroy's reasonable control, including, but not limited to strikes, labor difficulties, delay of defaults of common carriers, failure of curtailment in McElroy's usual source of supply or failure of a manufacturer to timely deliver goods to McElroy or buyer. McElroy will give reasonable notice to buyer if it appears to McElroy that delay in delivery will arise for any reason, and upon the giving of such notice all specified delivery dates may, at the election of McElroy, be extended from time to time for an additional period or periods as may be reasonable. Title to and risk of loss for products passes to buyer upon delivery to carrier. McElroy manufacturing, Inc. must be notified of any discrepancy in shipment within 10 calendar days after Receipt.

## PARTIAL SHIPMENTS

Seller reserves the right to make and to invoice for partial shipments.

## RETURN OF GOODS

Buyer agrees not to return goods for any reason except upon the written consent of McElroy obtained in advance of such return, which consent, if given, shall specify the terms and conditions and charges upon which any such return may be made. Materials returned to McElroy Manufacturing, Inc., for warranty work, repair, etc., must have a **Return Material Authorization (RMA)** number, and be so noted on the package at time of shipment. For assistance, inquiry shall be directed to:

### **McElroy Manufacturing, Inc.**

P.O. Box 580550

Tulsa, Oklahoma 74158

(918) 836-8611

Fax: (918) 831-9285

Email: [sales@mcelroy.com](mailto:sales@mcelroy.com). (<mailto:sales@mcelroy.com>)

**Note:** Certain repairs, warranty work, and inquiries may be directed, at McElroy's discretion, to an authorized service center or distributor.

## CANCELLATION

Buyer agrees that an order shall in no event be subject to cancellation or reduction or modification except by prior written consent of McElroy and then only when McElroy is fully reimbursed for its cost (including profit, overhead and other indirect cost) for work performed, goods purchased by it or goods ordered by it to satisfy the buyer's order.

## INFORMATION DISCLOSED

No information of knowledge heretofore or hereafter disclosed to McElroy in the performance of or in connection with the terms hereof, shall be deemed to be confidential or proprietary, unless otherwise expressly agreed to in writing by McElroy and any such information or knowledge shall be free to from restrictions, other than a claim for patent infringement, is part of the consideration hereof.

## PROPRIETARY RIGHTS

All proprietary rights pertaining to the equipment or the components of the equipment to be delivered by McElroy hereunder, and all patent rights therein, arising prior to, or in the course of, or as a result of the design or fabrication of the said product, are exclusively the property of McElroy.

## PRODUCT IMPROVEMENT

McElroy reserves the right to make any changes in or improvements on its products without incurring any liability or obligation to update or change previously sold machines and/or the accessories thereto.

## LAW APPLICABLE

All sales shall be governed by the uniform commercial code of Oklahoma, U.S.A.

## FOREIGN REPRESENTATION

Representation is on a nonexclusive basis, and representatives are not authorized to obligate McElroy Manufacturing, Inc. as to price, warranty, application or delivery of products. All orders presented by representatives must be accepted and acknowledged by McElroy at its Tulsa, Oklahoma, U.S.A. office and acknowledged by McElroy at its Tulsa, Oklahoma, U.S.A. office.

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