



**Engineered Solutions for Filtration Needs 800.435.4877**

## **DOMESTIC CUSTOMER SERVICE & SUPPORT STANDARD TERMS AND CONDITIONS**

### **1. DELIVERABLES**

(a) Statement of Work. For each project under this Contract ("Project"), Purchaser and Barnes International Inc. (BII) shall collaborate on a written statement of work ("Statement of Work") which shall contain a description of the services to be rendered hereunder, the price to be paid to BII by Purchaser for such services, the payment terms, and the anticipated schedule for performing the services. As applicable, Designs, Services, Specifications, Documentation, and Drawings shall be collectively referred to as "Deliverables."

(b) Customer Revisions. During any Project, Purchaser reserves the right to revise the Statement of Work or the time frames associated with it. If Purchaser elects to make revisions, the parties will either reach agreement on the new fees (if any), time frames, or Deliverables, or they shall terminate the applicable Statement of Work and the terms of Section 10 shall apply.

(c) Use of Deliverables. Unless otherwise provided in the Statement of Work, BII does not represent that the Deliverables are suitable for use as bid specifications.

### **2. ACCEPTANCE**

Any Deliverables provided to Purchaser under a Statement of Work shall be deemed accepted when: (1) Purchaser notifies BII that the Deliverable is in conformance with the Functional Specifications; or (2) when Purchaser has had possession of the Deliverable for seven (5) working days and has not notified BII that the Deliverable is rejected.

### **3. WARRANTY AND LIMITATIONS**

The services to be performed by BII pursuant to this Contract shall be performed in accordance with the usual and customary standards of the conveyor material handling industry and in accordance with the Statement of Work. BII warrants that the Deliverables do not infringe any third party's U.S. patent, copyright or trademark. Unless otherwise provided in a statement signed by both parties, the warranties described in this Section are the only warranties BII makes under this Contract. BII DISCLAIMS, AND PURCHASER HEREBY WAIVES, ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR PARTICULAR USE.

### **4. LIMITATION OF RELATIONSHIP**

Nothing contained in this Contract shall create any obligation on the part of Purchaser to contract with BII for any work other than as provided in this Contract, and BII may provide support of any nature to any third party. It is understood and agreed that the relationship created by this Contract is that of an independent contractor and that nothing in the Contract shall be construed as constituting BII as an employee or agent of Purchaser for any purpose whatsoever.

### **5. NO THIRD-PARTY BENEFICIARIES - INDEMNITY**

Nothing in this Contract is intended to create any rights whatsoever in anyone except Purchaser. Purchaser shall indemnify BII and hold it harmless from any claims of third parties (including claims for death or injury to persons or property) relating to or arising in any manner from BII's performance or failure of performance under this Contract.

## **6. INTELLECTUAL PROPERTY**

Any invention or discovery, whether patentable or not, made or conceived by BII in the performance of this Contract shall be BII's sole property. If such invention or discovery is embodied in a Deliverable, then Purchaser shall have an irrevocable, nonexclusive, nontransferable, perpetual and royalty-free license to use such invention or discovery in the application contemplated by this Contract. Nothing in this Contract shall be construed as granting by implication, estoppel or otherwise, any license under any invention, patent, trademark and/or other intellectual property right now or hereafter owned or controlled by either party unless otherwise explicitly provided.

## **7. CONFIDENTIALITY**

The parties agree to treat confidentially information designated by the other as confidential for a period of one (1) year from the date of this Contract unless such information is an unpatented trade secret licensed to Purchaser under Section 6, in which case Purchaser shall keep such information confidential until BII confirms to Purchaser in writing that the information may be disclosed. Such information shall not include information which is already known to the other, which is in the public domain or which is acquired by a third party entitled to disclose it to the other.

## **8. EXCUSABLE DELAYS**

BII shall be excused from timely performance to the extent that BII is delayed by causes not within its reasonable control.

## **9. ASSIGNMENT**

Neither of us may assign this Contract without prior written consent of the other.

## **10. TERM AND TERMINATION**

(a) Term. This Contract shall be effective for so long as BII is providing Deliverables pursuant to a Statement of Work, unless terminated sooner as set forth in this Contract.

(b) Termination. Each Statement of Work and/or this Contract may be terminated by either party if the other party commits a material breach of this Contract or any Statement of Work and fails to correct such breach within thirty (30) days of its receipt of written notice from the non-breaching party. BII also has the right to terminate each Statement of Work and/or this Contract without cause upon providing thirty (30) days advanced written notice to the Purchaser.

(c) Obligation Upon Termination. In the event of termination, each party shall return the other party's Confidential Information; Purchaser shall pay BII all fees and expenses owed for work performed by BII as of the effective date of termination; and BII shall return any Purchaser equipment and property of any nature which are in BII's possession or control.

(d) Survival. All provisions of this Contract relating to confidentiality, licenses, ownership, indemnification, and limitations of liability shall survive termination of this Contract.

## **11. LIMITATION ON DAMAGES**

Purchaser agrees that Purchaser's sole remedy for any claims against BII resulting from or arising out of BII's performance of this Contract, including but not limited to breach of any professional obligations or contribution or indemnity, shall be damages not exceeding the amount paid by Purchaser to BII under this Contract. Neither Purchaser nor BII shall be responsible for special or consequential damages arising out of contract, warranty, tort or any other legal theory.

## **12. INTEGRATION**

This Contract represents the entire understanding between Purchaser and BII and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract may be amended only by written instrument signed by both Purchaser and BII.

## **13. APPLICABLE LAW**

This Contract shall be interpreted and construed, and all rights and remedies will be deemed, in accordance with the laws of the State of Illinois.

The Purchaser of these services hereby agrees to the attached terms and conditions. Please return a copy of this concurrence with your purchase order. Submit in accordance the BII International, Inc. Customer Service Rate Guide and Notice to Buyers.

**PURCHASER:**

COMPANY: \_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_