

**CHECK CORPORATION (“SUPPLIER”)
TERMS AND CONDITIONS FOR “IN-CAB” HEAT AND
VENTILATION SYSTEM (“SYSTEM”)**

**THESE TERMS AND CONDITIONS SUPERSEDE ALL BUT
CONFLICTING SIGNED AGREEMENTS BETWEEN SUPPLIER AND
CUSTOMER.**

1. Product quality will be in compliance with ISO 9001:2008 and IPC-A-610 current Rev D, Class 2, Workmanship Standards.
2. Manufacturing specifications not identified and provided by the customer with this quote must be submitted for review prior to order acceptance. Changes in specifications may result in price changes.
3. Lead times
 - a. Initial Release: 12 weeks ARO
 - b. Ongoing: 8 weeks ARO
4. All material will be procured in required form factors and minimum order quantities to allow for efficient production. Customer will be responsible for all material procured in excess of exact quantities required to produce product.
5. System piece price will be determined by Customer Purchase Order quantity.
 - a. Releases to PO quantity will be accepted with the following conditions
 - i. Entire PO amount must be taken within 1 year from PO issue date.
 - ii. All releases must be equal to or greater than the Minimum Release Quantity.
6. Minimum Release Quantity and Increments Thereof
 - a. Release quantities must be in increments of (192) 2-fan systems.
7. This quote is valid for 30 days from date of issue.
8. All shipments F.O.B. Troy, MI.
9. Prototype assemblies are not for re-sale and no regulatory certification, safety testing, validation testing or product validation of any kind whatsoever was conducted by Supplier.

General Terms and Conditions

1. **Certain Definitions:** (1) “Defect” or “Defective” means Product or Deliverables in breach of the warranty in Section 5; and (2) “Specifications” means written specifications setting forth manufacturing, component, testing, shipping and all other pertinent requirements for Product.
2. **Payment:** Terms are Net 30. In the event of cancellation, expiration or termination of the Order for any reason, Customer will remain liable for all fees, costs of material and expenses incurred by Supplier, including E&O Inventory at Supplier’s purchasing standard cost (PSC), plus twenty percent.
3. **Acceptance:** Customer will be deemed to have accepted Product unless, within ten days following Supplier’s delivery thereof, Customer provides a detailed written notice setting forth the manner in which such Product fails to conform to Specifications. Acceptance of any Product hereunder is also an acceptance of these terms and conditions, and Customer agrees that these terms and conditions will govern the transaction despite any conflicting terms in Customer’s Order.
4. **Specifications:** Customer will be solely responsible for the completeness and adequacy of the specifications and will hold Supplier harmless for any claim arising there from. Any changes to the Specifications must be in writing and are only effective as acknowledged by Supplier.
5. **Warranty:** Supplier warrants that the “System” sold hereunder will be conveyed free and clear of any lien, security interest or encumbrance created by Supplier or any party claiming by, through or under Supplier and will be free from defects in materials and workmanship for a period of (2) two years from the date stamped on ventilation fan housing. Custom designed heat and ventilation systems must only be used in seat applications for which they were designed, tested and approved by Supplier, and failure to properly install the designated product, or improper installation or misuse of any component, will void this Limited Warranty.
6. **Warranty Remedy:** The warranty is limited to replacement of applicable supplied components including fan, electronic controller, harness, heater pad and switch. Supplier may require suspect faulty component(s) to be sent to its facility for warranty verification. **SUPPLIER WILL NOT BE RESPONSIBLE FOR ANY ADDITIONAL COSTS ASSOCIATED WITH A SYSTEM FAILURE.** This warranty is extended only to, and may only be enforced by, Customer.
7. **DISCLAIMER:** THE REMEDY IN SECTION 6 IS CUSTOMER’S SOLE AND EXCLUSIVE REMEDY FOR ANY SUPPLIER BREACH. THE WARRANTY IN SECTION 5 IS IN LIEU OF, AND SUPPLIER EXPRESSLY DISCLAIMS, AND CUSTOMER EXPRESSLY WAIVES, ALL OTHER WARRANTIES AND REPRESENTATIONS INCLUDING WITHOUT LIMITATION COMPLIANCE WITH MATERIALS DECLARATION REQUIREMENTS, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CUSTOMER UNDERSTANDS AND AGREES THAT IT SHALL HAVE FULL AND EXCLUSIVE LIABILITY WITH RESPECT TO ANY PRODUCT, WHETHER FOR PRODUCT DESIGN LIABILITY, PRODUCT LIABILITY, DAMAGE TO PERSON OR PROPERTY AND/OR INFRINGEMENT OR MISAPPROPRIATION OF THIRD PARTY RIGHTS. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY SUPPLIER,

ITS AGENTS OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER. SUPPLIER’S WARRANTY SHALL NOT APPLY TO ANY PRODUCT SUPPLIER DETERMINES TO HAVE BEEN SUBJECTED TO TESTING FOR OTHER THAN SPECIFIED ELECTRICAL CHARACTERISTICS OR TO OPERATING AND/OR ENVIRONMENTAL CONDITIONS IN EXCESS OF THE MAXIMUM VALUES ESTABLISHED IN APPLICABLE SPECIFICATIONS, OR TO HAVE BEEN THE SUBJECT OF MISHANDLING, ACCIDENT, MISUSE, NEGLIGENCE, IMPROPER TESTING, IMPROPER OR UNAUTHORIZED REPAIR, ALTERATION, DAMAGE, ASSEMBLY, PROCESSING OR ANY OTHER INAPPROPRIATE OR UNAUTHORIZED ACTION OR INACTION THAT ALTERS PHYSICAL OR ELECTRICAL PROPERTIES. THIS WARRANTY SHALL NOT APPLY TO ANY DEFECT IN THE PRODUCT ARISING FROM (OR DUE TO THE DEFICIENCY OF) ANY DRAWING, DESIGN, SPECIFICATION, PROCESS, TESTING OR OTHER PROCEDURE, ADJUSTMENT OR MODIFICATION SUPPLIED AND/OR APPROVED BY CUSTOMER.

8. **LIMITATION OF DAMAGES:** EXCEPT UNDER SECTIONS 10 AND 11, NEITHER PARTY WILL BE LIABLE AT LAW OR EQUITY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES REGARDLESS OF WHETHER SUCH PARTY WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

9. **Intellectual Property:** Customer grants Supplier a license to use its intellectual property to the extent necessary for Supplier to perform hereunder. Upon payment in full, Supplier grants Customer a non-exclusive license to its other intellectual property including US Patent # 6,003,950 to the extent required to use, sell and distribute Product. Except as expressly otherwise provided herein (1) each party retains all right, title and interest in and to its intellectual property; and (2) all licenses are worldwide, non-exclusive, fully paid-up, and royalty-free.

10. **Customer Warranty and Indemnification:** Customer will indemnify, defend and hold Supplier and its employees, subsidiaries, affiliates, successors and assigns harmless from and against all claims, damages, losses, costs and expenses, including attorneys’ fees, arising from any third party claim based in part or in whole on (1) the Specifications, Customer proprietary information and technology, any Product, or any design, information, technology and processes supplied and/or approved by Customer or otherwise required by Customer of Supplier; (2) that any item in clause (1) infringes or violates any patent, copyright or other intellectual property right of a third party; (3) actual or alleged noncompliance with Materials Declaration Requirements; and (4) design or product liability alleging that any item in clause (1) has caused or will in the future cause damages of any kind. Customer will reimburse Supplier’s expense for counsel if Customer does not assume control of the defense of a subject claim. Customer will not make any settlement that affects Supplier’s rights or interests without Supplier’s prior written approval, which will not be unreasonably withheld.

11. **Confidential Information:** “Confidential Information” means information on tangible media conspicuously labeled as “proprietary” or confidential” or with comparable legend (“marked”) provided by one party (“Provider”) to the other party (“Recipient”). Orally disclosed information is also Confidential Information if Provider gives Recipient a marked writing containing a summary, the approximate date and time and the recipients of such disclosure within 30 days of disclosure. No information can be Confidential Information if (1) it is publicly available through no fault of Recipient; (2) Recipient gets it from a third party who had the right to provide it; (3) Recipient independently develops it or knew it before receiving it hereunder; or (4) Provider discloses it to a third party without restriction. Recipient will hold and protect confidential Information with the same degree of care that it uses with its own information of like importance, but in no event less than a reasonable standard of care. This Section 12 survives fulfillment or earlier termination of the Order for two years.

12. **Tooling:** Customer shall pay the cost of tools, fixtures and all associated documentation per quotes provided by Supplier, and as specifically set forth on Customer’s purchase order. All tooling and documentation shall at all times remain the sole property of the Customer.

13. **General:** Both parties will comply with applicable export control laws and regulations. Customer may assign the Order, but not its obligations to Supplier, if Supplier consents and if the assignee agrees in writing to be bound hereby and Supplier receives a copy of such writing within 30 days of such assignment. Neither party will be liable for any delay or failure to perform resulting from an event or cause beyond its reasonable control. All required notices must be in writing. The illegality or unenforceability of any term hereunder will not affect the enforcement of any other term. No failure or delay to enforce a provision will be deemed a waiver thereof. Internal Michigan USA law governs interpretation of these terms, and any disputes hereunder will be resolved by binding arbitration conducted in Troy, Michigan, according to the procedures set forth in the American Arbitration Code. The United Nations Convention on Contracts for the International Sale of Goods does not apply.