

GENERAL TERMS AND CONDITIONS OF SALE

1. Conditional Acceptance of Offer. While this acknowledgement constitutes acceptance of Buyer's offer to purchase contained in that purchase order referenced on the face page hereof, such acceptance is expressly conditional upon Buyer's assent to all of the terms and conditions set forth herein or incorporated herein by reference. To the extent that the provisions of this acknowledgement conflict with any of the terms, conditions or provisions set forth in any proposal, quotation, sales agreement, purchase order or other document, the provisions of the acknowledgement shall prevail.
2. Entire Agreement: Modification and Amendment. Buyer's purchase order, as modified by this acknowledgement and any attachments hereto, embodies the entire and complete agreement between the parties (the "Contract") with respect to the subject matter hereof and no additional or different terms shall become part of such Contract unless and until accepted in writing by INDUSTRIAL ENGINEERING AND EQUIPMENT COMPANY, (hereinafter referred to BRASCH)'s factory sales staff. To the extent any advertising or promotional material of BRASCH contradicts or disagrees with the terms hereof, BRASCH and Buyer agree that the terms and conditions hereof shall control and that such advertising and/or promotional materials are not part of the Contract. No oral or written statements by BRASCH's sales representatives or other agents shall modify or vary the terms, conditions and provisions hereof unless and until confirmed in writing by BRASCH's factory sales staff on or after the date hereof. Except as expressly provided herein, this Contract is binding upon the parties hereto and is not subject to termination or cancellation unilaterally by either party.
3. Payment. Unless otherwise noted on the face hereof, the entire balance of the price for the goods sold and shipped pursuant hereto (the "Goods") is due on the 30th day following the date upon which the Goods are shipped. On any amounts not paid when due, Buyer shall pay all collection costs, including but not limited to interest at the rate of 1½ percent per month until paid in full and reasonable attorney's fees should this account be referred for collection.
4. Taxes. The prices stated herein do not include taxes imposed on the sale or use of the Goods. Any such applicable taxes shall be paid by, and the responsibility of, the Buyer, unless otherwise stated on the face hereof.
5. Quantity Variations. Shipments of custom heating elements may be subject to minor variations from order quantity.
6. Delivery. Unless otherwise agreed to in writing signed by BRASCH: (i) goods shall be delivered EXW Seller's premises (Incoterms 2020), with delivery to the initial carrier constituting delivery to Buyer; (ii) title to the goods and risk of damage or loss shall pass to Buyer upon delivery to the initial carrier; (iii) transportation costs shall be paid by Buyer; and (iv) Buyer shall have sole responsibility for filing any claims with any carrier for delay, loss or damage. (b) Dates of delivery or other performance are estimates and are based on timely receipt from Buyer of accurate and complete approved drawings and technical data. BRASCH reserves the right to charge a storage fee of 1.5% of the purchase price per month with a minimum monthly charge of \$300 for any orders not shipped due to the Buyer's failure to provide shipping instruction. Unless specifically agreed to by BRASCH in a separate signed writing, BRASCH does not guarantee any certain date of delivery and BRASCH shall not be liable to Buyer for any losses, costs, damages, charges, or expenses incurred by Buyer or any other person or entity arising directly or indirectly out of a failure to deliver on any particular date, nor will any delay entitle Buyer to terminate or rescind its purchase unless such delay exceeds sixty (60) days. BRASCH reserves the right to defer delivery, to cancel the order or reduce the volume of goods, materials and/or services delivered, all without liability of any kind whatsoever to Buyer. If BRASCH is prevented from or delayed in the carrying on if its business due to causes beyond BRASCH's reasonable control, including without limitation, strikes, lockouts, or other labor difficulties, floods, fires, earthquakes, hurricanes or other unusually severe weather conditions, embargoes, war or other outbreak of hostilities, acts of terrorism, acts of God, acts of Buyer, market shortages, unavailability of necessary materials, supplies or transportation services, any shift in raw material costs that prohibit or materially reduce the supply of materials or supplies from BRASCH's suppliers, inability to obtain shipping space, machinery breakdowns, delays of carriers or suppliers, governmental acts and regulations or other contingency the non-occurrence of which was a basic assumption on which the purchase was accepted, epidemics, pandemics, supply chain disruptions or other unforeseen circumstances. In such a case, BRASCH shall have no obligation to purchase substitute goods or make other substitute arrangements in order to complete delivery to Buyer or to ship substitute goods from any other facility. Additionally, during any period of shortage due to the stated or similar causes, BRASCH may prorate its supply of material among its internal demand and its customers in whatever manner it chooses. Buyer's right, under the Uniform Commercial Code, to reject due to delay in delivery is waived unless notice thereof is presented to BRASCH in writing within five (5) days after delivery.
7. Product Liability: Indemnification. BRASCH and Buyer hereby agree that BRASCH's liability for injury to persons or for damage or destruction of property shall be limited to only those losses proximately caused by the design or manufacture of the goods, and that Buyer shall be solely responsible and liable for the installation, use, and application of the Goods. Buyer agrees to, on demand, defend, indemnify and hold BRASCH harmless from and against any and all losses, claims, liabilities, costs and expenses (including attorneys' fees) incurred or suffered by BRASCH arising out of the installation, use or application of any product or system in which the Goods constitute a component part.
8. Limited Warranty. BRASCH new products are warranted against defects in workmanship, material, design, labeling and packaging. No other warranty, express or implied, written or oral, applies. No person other than an officer or the general manager of BRASCH is authorized to give any other warranty or assume any liability.
 - WARRANTY PERIOD: This warranty is effective for eighteen months from the date of shipment of the product from BRASCH's factory or for twelve months from the date the product is first placed in service, whichever period lapses first.
 - CONDITIONS OF WARRANTY: BRASCH products must be installed, operated and maintained in accordance with BRASCH's instructions. BRASCH is not liable for damage or unsatisfactory performance of the product resulting from accident, negligence, alteration, unauthorized repair, improper application or installation of the product, improper specifications, or corrosion. BRASCH IS NOT LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. Claims against carriers for damage in transit must be filed by the purchaser with the carrier.
 - REMEDY: Contact the BRASCH sales department at (314) 644-4300, for a Return Material Authorization Number (RMA#) and return instructions.

If after receipt of the product and the claim, BRASCH finds to its reasonable satisfaction that the product is defective in workmanship, material, design, labeling or packing, the product will be repaired or replaced or the purchase price refunded at BRASCH's option. There will be no charge to the purchaser for parts or labor. Removal and reinstallation of the product, and shipment of the product to BRASCH for repair or inspection shall be at the purchaser's risk and expense. THE REPAIR, REPLACEMENT OR REFUND PROVIDED FOR IN THIS LIMITED WARRANTY IS THE EXCLUSIVE REMEDY OF THE PURCHASER. THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE TERMS OF THIS LIMITED WARRANTY.

9. Assignment. The Contract may not be assigned by Buyer without the prior written consent of BRASCH.

10. Notices. Any notice required or permitted hereunder shall be in writing, signed by the party giving notice and shall be deemed to have been given when delivered by personal delivery, by telegraph, telex or facsimile transmission, by overnight courier, or by registered or certified mail, postage prepaid, to BRASCH or Buyer at the address set forth on the face page hereof.

11. Vendor's Lien. Buyer hereby grants unto BRASCH a vendor's lien on the Goods until the price for the Goods is paid in full. In the event Buyer shall fail to make payment in accordance with the Contract, BRASCH may, without prejudice to any other remedy available at law or in equity, (a) repossess itself of the Goods at Buyer's sole cost and expense, or (b) suspend further shipments of Goods to Buyer.

12. Waivers. No delay on the part of either party hereto in exercising any right hereunder shall operate as a waiver thereof, and no single or partial exercise of any such right shall preclude any other for further exercise thereof, or be deemed to establish a custom or course of dealing or performance between the parties hereto.

13. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the United States and the State of Missouri.

14. Arbitration. Any controversy or claim arising out of or relating to this contract, including an alleged breach thereof, shall, at BRASCH's sole election, be settled and resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association in St. Louis, Missouri, and judgment may be entered on the award in any court of competent jurisdiction.

15. California Proposition 65 Warning. WARNING: BRASCH Heaters can potentially expose you to chemicals including nickel and chromium which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information, go to www.P65Warnings.ca.gov.

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