

Information about End-Use in Compliance with Export Control

Dear Sir or Madam,

Your completion of this form is required to assure compliance with export laws and regulations for goods supplied by EagleBurgmann to your company.

If the end-use and ultimate destination of the goods purchased from EagleBurgmann is outside the U.S., you must complete this form and return it to your EagleBurgmann sales representative before EagleBurgmann will begin working on your order for the delivery of goods.

The form does not need to be completed if the end-use and ultimate destination is in the United States AND the application is neither Military, Naval nor Aerospace. Any Military, Naval or Aerospace application regardless of destination or end-use requires the completion of this form.

If there are any changes to the end-use, end-user or ultimate destination of the EagleBurgmann goods, it is the customer's responsibility to communicate this information to your EagleBurgmann sales representative.

End-User/ final destination of the goods	
Company name	
Location	
Street	
Phone	
E-Mail	

Purchase-Order-No.:	
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Country of final destination of the goods:	
--------------------------------------------	--

Application: <i>(please mark with a cross)</i>	<input type="checkbox"/> Military	<input type="checkbox"/> Navy	<input type="checkbox"/> Nuclear
	<input type="checkbox"/> Chemical	<input type="checkbox"/> Biological	<input type="checkbox"/> Petro Chemical
	<input type="checkbox"/> Food	<input type="checkbox"/> Pharmacy	<input type="checkbox"/> Aerospace
	<input type="checkbox"/> Gas & Oil	<input type="checkbox"/> Engineering	<input type="checkbox"/> Power plant
	<input type="checkbox"/> General Industry	<input type="checkbox"/> others	

Customers agree and expressly certify that he/she:

A) Will not deliver (export or re-export) directly or indirectly through a third party products to:

1. Cuba, Iran, North Korea, Sudan, or Syria, or any other country for which the United States maintains export controls, export embargoes or other economic sanctions, except if necessary licenses for such export or re-export have been obtained from the appropriate U.S. Government Agency (e.g. U.S. Bureau of Industry, Office of Foreign Assets Control, Department of State). This provision applies equally to EagleBurgmann products ordered for new installation and for repair or replacement purposes.
2. Any prohibited individuals, entities or countries listed under the U.S. and European Union denied party lists and the United Nations Security Council Resolutions.

B) Will not use EagleBurgmann goods for forbidden end-uses, including: the development of nuclear facilities not licensed by the U.S. Government; chemical, biological, or nuclear weapons; rocket, missile or unmanned aircraft systems or terrorist activities.

C) Customer will abide by applicable U.S. Government export license requirements.

Any material omissions, misrepresentations, or misstatements by the customer in connection with the above certifications are grounds for further action by EagleBurgmann, including but not limited to, cancellation of orders, denial of future business, and appropriate legal action. EagleBurgmann may be required by applicable laws, or requested by appropriate law enforcement authorities, to report information related to, or assist in the investigation of, possible violations of U.S. export control laws.

I certify that:
1) I am authorized to sign on behalf of my company,
2) That the Information provided in this document is true and correct.

Date
Name
Signature

Please return the completed and signed form via E-Mail to your EagleBurgmann contact
Houston Texas, 77040
Phone: 713-939-9515; Fax: 713-939-9091

1. TERMS AND CONDITIONS AND TERMS: The sale of products and services ("Product(s)") by EagleBurgmann Industries LP or by the entity designated on Quotes/Order Confirmations or on the face hereof or attached writing (the "Seller") to the purchaser named thereon (the "Purchaser") are exclusively governed by the terms and conditions herein, together with the order specific terms agreed to in writing by the parties relating to Product prices, quantity, specifications, delivery terms and locations (collectively, this "Contract"). Issuance of a purchase order or acceptance of the Products by Purchaser constitutes acceptance of these terms and conditions. Any additional or different terms or modifications to this Contract proposed by Purchaser, whether in a purchase order or otherwise, are expressly rejected by Seller and are not part of this Contract.

2. QUOTATIONS AND PURCHASE ORDERS. If these terms are delivered with a quotation, such quotation may be declared void by Seller unless accepted by Purchaser within 30 days from the date it was delivered, and such quotations are subject to change upon notice, in which case it supersedes all previous quotations and agreements. All purchase orders submitted by Purchaser with the order specific terms (i.e., Product prices, quantity, product specifications, delivery terms and locations) matching Seller's quotation will constitute an acceptance, and these terms and conditions of sales will apply exclusively, and no other extra terms or boilerplate of Buyer will apply. All purchase orders are subject to written acceptance and confirmation by Seller. Orders for Products which are to be used in military/defense applications will not be accepted.

3. DELIVERY. Delivery shall be made EXW (Incoterms 2010) Seller's point of shipment. Purchaser will take title and risk of loss to the Products upon delivery, and expenses will thereafter rest upon Purchaser including without limitation all risks and expenses incurred in the storage and transportation of the Products as well as all insurance, shipping fees, charges, taxes, customs duties and other governmental charges or levies and all other expenses whatsoever thereafter incurred with respect to the Products. Delivery dates are estimated only and are subject to change. Seller may make delivery in installments, each of which may be separately invoiced and paid as billed without regard to subsequent deliveries. Failure to pay for any installment when due will excuse Seller from making further deliveries. Delay in delivery of any installment will not relieve Purchaser of its obligation to accept remaining installments. Seller will use reasonable efforts to perform and deliver the Products on time, but will not be liable for any expenses or damages incurred as a result of late delivery. Delivered goods can only be used for civilian end use applications.

4. PRICE. Payment shall be made in U.S. dollars, net 30 days from date of Seller's invoice. Prices do not include sales, use, excise, or similar taxes. All such taxes shall be paid by the Purchaser. Overdue payments shall bear interest at the rate of 18% per annum (1.5% per month) or the maximum rate permitted by law, whichever is less. Seller shall have the right, among other remedies, including the right of setoff, either to terminate this Contract or to suspend further deliveries under this Contract and/or other agreements with Purchaser in the event Purchaser fails to make any payment when due. Purchaser shall be liable for all expenses related to collection of past due amounts, including attorneys' fees. Seller may require full or partial payment in advance of shipment or change credit or payment terms if, in Seller's opinion, the credit or financial condition of Purchaser is, or is about to become, impaired. If Purchaser requests delayed shipment, Seller may bill for Products when ready for shipment and charge reasonable daily storage fees. Seller retains a security interest in Products, equipment and tooling until payment, and Purchaser will execute any paperwork required by Seller to perfect any such security interest.

5. LIMITED WARRANTY. Seller warrants to Purchaser that as of the date of delivery: (a) the Products will be free from defects in workmanship and material, and will conform to Seller's specifications and statements of work, or those specifications provided by Purchaser and agreed to by Seller in writing; and (b) Seller will transfer to Purchaser ownership and good title to Products delivered, free of all liens and encumbrances. Seller will repair or replace free of charge, any parts of the Products manufactured by Seller which are defective and are returned to Seller at the expense of Purchaser provided that the notice of claim of defects is received within six (6) months from date of shipment. Accessories supplied by Seller but manufactured by others carry whatever warranty such manufacturers have conveyed to Seller. Any warranty claims by Purchaser must be provided to Seller in writing, and failure to do so within the warranty period will be deemed as an unconditional waiver of Purchaser's warranty claim. Purchaser's exclusive remedy for a valid warranty claim is either the repair, replacement, or refund of the price paid by Purchaser for the Product. These remedies do not include the cost of installation, removal, dismantling, or reinstallation. Seller shall have no liability to the extent Products are or have been: (a) modified by Purchaser or a third party; (b) modified by Seller at Purchaser's request; (c) made to specifications not provided by Seller; (d) used or installed in a way not known to Seller or operated under conditions not known to Seller; or (e) subject to misuse, abuse or improper storage, installation or maintenance. THE WARRANTIES AND REMEDIES ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY SELLER OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE. SELLER DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES OF NON-INFRINGEMENT.

6. LIMITATION OF LIABILITY. EXCEPT FOR BREACH OF OBLIGATIONS OF CONFIDENTIALITY OR LOSS OF SELLER'S ANTICIPATED PROFITS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND. THE TERM "CONSEQUENTIAL DAMAGES" INCLUDES WITHOUT LIMITATION, LOSS OF USE, LOSS OF REVENUE, AND COST OF CAPITAL. EXCEPT FOR PERSONAL INJURY OR DEATH DUE TO SELLER'S NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL DAMAGES THAT CAN BE AWARDED IN ANY CLAIM BY PURCHASER RELATING TO SELLER'S OBLIGATIONS UNDER THIS CONTRACT (WHETHER BASED IN AGREEMENT, TORT OR OTHERWISE), SHALL NOT EXCEED THE COMBINED TOTAL OF AMOUNTS PAID BY PURCHASER TO SELLER UNDER THIS CONTRACT DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. THE PARTIES EXPRESSLY AGREE THAT THE ABOVE LIMITATIONS ON LIABILITY PROVISION SHALL REMAIN IN FULL FORCE AND EFFECT EVEN IF IT IS FOUND THAT PURCHASER'S EXCLUSIVE REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

7. PATENT INFRINGEMENT. Seller will defend or settle, at its sole expense, any third party claim, demand or suit against Purchaser alleging that the use of any Product designed and made by Seller, infringes a U.S. patent, copyright, trade secret or other intellectual property right ("IP Claim(s)"); provided: (a) the alleged infringement does not arise from Seller's compliance with specifications or designs furnished by Purchaser; (b) Seller receives prompt written notice of such IP Claim and exclusive control over its defense and/or settlement; and (c) Purchaser provides Seller with all information available to Purchaser for the defense and cooperates with Seller in the defense, and does not take a position adverse to Seller. Further, Seller will have no liability under this Section if and to the extent that an IP Claim is based on: (1) a Product modification made by Purchaser or a third party, or made by Seller at Purchaser's request; (2) use or interconnection by Purchaser of the Product in combination with other products not made or sourced by Seller; or (3) Products made to design or specifications not provided by Seller. Except for third party IP Claims above, and subject to the limitations set out in Section 6 above, Seller's exclusive obligation to Purchaser as to Products declared to infringe, and Seller's right as to Products which Seller believes are likely to infringe, is the acquisition of a license, or the replacement of Products with non-infringing goods, or the modification of the Products so that they are non-infringing. If Seller determines that none of the foregoing alternatives are reasonably available, Seller will issue a refund equal to the purchase price for the affected Products if within one year of delivery or the Purchaser's net book value of the affected Product at the time of the refund. Regarding Purchaser's products made by or utilizing the designs of Purchaser, or products combined or interconnected with Products furnished under this Contract, Purchaser will defend and settle at its sole expense, any third party claim, demand or suit against Seller alleging any of such products infringes a patent, copyright, trade secret or other intellectual property right, provided: (i) the alleged infringement does not arise from Purchaser's compliance with specifications or designs furnished by Seller; (ii) Purchaser receives prompt written notice of such claim, demand or suit and exclusive control over its defense and/or settlement; and (iii) Seller provides Purchaser with all information available to Seller for the defense and cooperates with Purchaser in the defense, and does not take a position adverse to Purchaser. This Section states the entire liability of Seller and Purchaser's limited remedies as to IP Claims.

8. OWNERSHIP OF PROPRIETARY MATERIALS, TOOLING. Seller will have and retain all intellectual property rights in all Products, tooling and associated materials, furnished by Seller in connection with or pursuant to this Contract, including, without limitation, patents, utility models, design rights (and any pending applications), trademarks, copyrights, technical, business, economic or know-how information, trade secrets, confidential proprietary information, inventions, data, formulae, material compositions, drawings, specifications, prototypes, manufacturing processes, product pricing and any right related thereto (whether or not patentable) that is not generally available to the public ("Proprietary Materials"). No Proprietary Materials created by Seller in connection with or pursuant to this Contract shall be considered "works made for hire" as that term is used in connection with the U.S. Copyright Act.

9. TECHNICAL ADVICE. Unless otherwise agreed mutually in writing, any technical advice furnished by Seller to Purchaser before or after delivery of the Products is provided "as is" and on a gratuitous basis, without charge, and on the basis that it represents Seller's good faith judgment, but without warranty of any kind, and is accepted at Purchaser's sole risk.

10. CONFIDENTIALITY. If the parties have entered into a Confidentiality or Non-Disclosure Agreement ("NDA"), the terms and conditions of the NDA shall apply and control for confidentiality obligations between the parties. In connection with this Contract, Purchaser may have access to Seller's confidential information, including, without limitation inventions, developments, know how, specifications, business plans, results of testing, systems, financial information, product information, methods of operation, manufacturing processes, customer information, supplier information and compilations of data ("Seller's Confidential Information"). Purchaser shall use Seller's Confidential Information only for the purposes contemplated under this Contract and shall not disclose it to third parties. Purchaser shall maintain the confidentiality of Seller's Confidential Information in the same manner, but in no event less than the manner, in which it protects its own confidential information. Purchaser is permitted to disclose Seller's Confidential Information to its employees and authorized subcontractors on a need to know basis only, provided that such employees and authorized subcontractors have written confidentiality obligations to Purchaser no less stringent than the confidentiality obligations under this Section. Upon termination of this Contract, Purchaser shall return Seller's Confidential Information and shall not use Seller's Confidential Information for its own, or any third party's benefit. Purchaser's confidentiality obligations shall survive termination of this Contract for so long as Seller's Confidential Information remains confidential. Seller shall be entitled to injunctive relief, including, but not limited to, emergency, preliminary, temporary and permanent injunctions, from any court of competent jurisdiction as may be necessary to enjoin any violation of the foregoing covenants, without the necessity of proving immediate irreparable harm or an inadequate remedy at law.

11. TERMINATION BY SELLER. In addition to any other rights of Seller to terminate or suspend this Contract, Seller may, upon written notice to Purchaser, immediately terminate or suspend all or any part of this Contract without any liability to Purchaser, (a) if Purchaser (i) repudiates, breaches, or threatens to breach any of the terms of this Contract, (ii) fails to accept or threatens not to accept Products in accordance with this Contract, or (iii) fails to make timely payment, or (b) upon the occurrence or threat of insolvency or bankruptcy of Purchaser. Upon termination of this Contract by Seller: (A) Seller will be relieved of any further obligation to Purchaser; (B) Purchaser will be liable to Seller for the immediate payment of amounts then billed to date by Seller to Purchaser; (C) Purchaser will purchase and pay Seller immediately for all unique raw materials, work in process and finished goods under this Contract; (D) Purchaser will reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Products; and (E) Purchaser will immediately reimburse Seller for all preparation and other expenses incurred by Seller or its subcontractors in connection with this Contract and for all other losses or costs arising from termination.

12. TERMINATION BY PURCHASER. If Seller fails to perform any material obligation under this Contract or delivers Product after an agreed upon delivery date, and, if the non-performance can be cured but Seller fails to cure the non-performance within thirty (30) days after written notice from Purchaser, Purchaser may terminate this Contract without further obligation. Otherwise, upon giving written notice to Seller not less than ninety (90) days prior to shipment Purchaser may cancel any purchase order or scheduled delivery under this Contract, in which case: (a) Seller will be relieved of any further obligation to Purchaser; (b) Purchaser will pay all amounts then due; (c) Purchaser will purchase and pay Seller immediately for all unique raw materials, work in process and finished goods under this Contract; and (d) Purchaser will reimburse Seller for any unreimbursed and unamortized research and development costs, capital equipment, and supplies that are unique to the Products.

13. FORCE MAJEURE. Neither party will be liable if its performance is delayed or made impossible or commercially impracticable due to acts of God, civil commotion, terrorism, military authority, war, riot, fire, labor trouble or strikes, unavailability of materials or components, explosion, breakdown or accident, delay in transportation, plant shutdown, compliance with governmental requests, laws, regulations, order or actions, unforeseen circumstances, or causes beyond such party's reasonable control.

14. COMPLIANCE WITH LAW. The parties will comply with all applicable federal, state, local and foreign laws, orders, rules, regulations and ordinances, including export controls and import compliance, anti-boycott measures, Foreign Corrupt Practices Act ("FCPA"), embargoes, sanctions, shipment to prohibited destinations or end-user, and for a prohibited end-use. If Purchaser exports, re-exports, diverts, transfers or imports Products, or technology or software related to the Products, Purchaser assumes responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations of any applicable jurisdiction or country. Notwithstanding the foregoing, unless otherwise agreed in this Contract, Seller shall not be responsible for regulatory and other legal compliance: (a) outside the U.S., including, without limitation, the European regulation for the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"), (b) as to the products made by Purchaser which incorporate the Products, (c) as to any use of Products by Purchaser or Purchaser's customers other than as covered by the Limited Warranty set out herein above.

15. GOVERNING LAW, JURISDICTION AND VENUE. This Contract will be governed by and construed in accordance with the laws of the State of Texas without reference to the choice of law principles thereof. The Convention on Contracts for the International Sale of Goods is expressly excluded. Subject to the provisions of Dispute Resolution below, each party irrevocably submits to the jurisdiction of the Courts of the State of Texas and the United States District Court in Houston, Texas and hereby waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.

16. DISPUTES. Any dispute or disagreement between Seller and Purchaser arising out of or relating to this Contract or related to any Product ("Dispute"), will be submitted to and settled by binding arbitration in lieu of any judicial proceeding; provided, however, that nothing contained in this Section will preclude any party from seeking or obtaining from a court of competent jurisdiction: (a) injunctive relief, or (b) equitable or other judicial relief to specifically enforce the provisions of this Contract or to preserve the status quo prior to the event(s) leading to the Dispute. Arbitration will be conducted by the American Arbitration Association in Houston, Texas before a single arbitrator in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. Any arbitration award will be binding and enforceable against Seller and Purchaser and judgment may be entered thereon in any court of competent jurisdiction. Neither party may bring a claim or action arising out of or related to this Contract, including any claim of fraud or misrepresentation, more than one (1) year after the cause of action accrues.

17. WAIVER, ENTIRE AGREEMENT, SEVERABILITY, ASSIGNMENT. The failure of either party to enforce any right or remedy provided in this Contract or by law on a particular occasion will not be deemed a waiver of that right or remedy on a subsequent occasion or a waiver of any other right or remedy. This Contract constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations or agreements by the parties with respect to the subject matter of this Contract. This Contract may not be modified unless in writing and signed by authorized representatives of both parties. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable. Purchaser may not assign its rights or obligations hereunder without the prior written consent of Seller and any purported assignment without such consent will be of no effect.