



ENGINEERING AND TEST DIVISION GENERAL TERMS AND CONDITIONS

INTRODUCTION:

Providing Testing and Engineering Services requires specialized Terms and Conditions because of the unique and complex nature of this work. Therefore, the Testing and Engineering Services performed under this quotation shall be governed by the following Terms and Conditions.

I. DEFINITION:

- A. Seller: Dayton T. Brown, Inc., Engineering and Test Division (DTB).
- B. Buyer: The company, corporation, agency, or individual to whom this quotation is addressed.

II. QUOTATION:

The quotation as provided by the Seller shall consist of a sales letter and a copy or an internet link to a copy of these Terms and Conditions.

III. CONTRACT AGREEMENT:

The Buyer, when placing an order with the Seller, agrees that the Seller's quotation, including these Terms and Conditions, the Buyer's order, and the Seller's confirmation shall constitute the entire contract between the Buyer and the Seller.

IV. BUYER'S PURCHASE ORDER:

The Seller shall assume that the Buyer accepts the Seller's Terms and Conditions in lieu of the Buyer's Terms and Conditions on any orders placed with the Seller.

V. ACCEPTANCE:

Any purchase order issued to the Seller shall not constitute a binding contract until it is accepted and acknowledged by the Seller, at the Seller's office in Bohemia, New York.

VI. CHOICE OF LAW:

Any contract made by the Seller shall be governed by the Laws of the State of New York.

VII. CREDIT AND PAYMENT:

The acceptance of any purchase order by the Seller shall be contingent upon approval of Buyer's credit. The terms of payment under any resulting contract shall be Net 30 days before acceptance and in light of Seller's credit investigation. If the Buyer fails to make payment in accordance with the agreed terms of payment, Seller shall have the right to cease work and make all invoices immediately due and payable, and at its option, to establish new terms of payment.

VIII. SCHEDULING AND INTERRUPTIONS:

The Seller agrees to provide the Buyer with a timely schedule for the start of any test or engineering program. If for any reason the test or engineering program is interrupted at the Buyer's direction, or by the failure of items under test, for a period of thirty (30) days, the completed portion of the work may be billed to the Buyer and shall become due and payable in accordance with the agreed terms of payment.

IX. PERIOD OF PERFORMANCE:

Unless otherwise specified, all quoted prices are based upon an anticipated program completion within twelve (12) months after the date of the quotation.

X. INSURANCE:

Because of the difficulty in determining the value of test items, liability for loss and/or damage to Buyer's property while in the care, custody, and control of Seller is limited to the amount paid by the Buyer for the work performed, but in no event to exceed an amount of \$50,000 for any test program. In the event that insurance coverage is required beyond the limits set forth above, it shall be the responsibility of the Buyer to obtain the additional coverage.

XI. DAMAGE/LIABILITY:

IN NO EVENT SHALL DTB BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND WHATSOEVER. Further, DTB's liability for damages in any and all events shall not exceed the payment, if any, received by DTB for the services furnished or to be furnished, as the case may be, which is the subject of any subsequent claim or dispute.



XII. QUOTATION LIFE:

This quotation shall remain in effect for a period of thirty (30) days from the date thereof, unless a longer period is stated in DTB's quotation.

XIII. PRICING DEFINITION:

The prices contained in this quotation apply specifically to the test or engineering program at hand in accordance with the agreed specifications and shall not be binding upon Seller as the basis for subsequent pricing, repeat testing, additions and/or omissions to the test program or parts thereof. The prices quoted herein for materials to be purchased by Seller from independent sources for performance of the work in this quotation are subject to modification in accordance with the price actually paid by Seller at the time of delivery.

XIV. DELAYS:

The delivery schedule or completion date incorporated herein shall not be binding if performance is delayed by acts of God (fire, earthquakes and the like), labor difficulties, shut-downs, equipment breakdowns, unforeseen engineering problems, Government priorities, or any other causes beyond the control of Seller.

XV. TRANSPORTATION:

The Buyer shall be responsible for the actual cost of transportation of Buyer's property to and from the Seller's Testing Laboratory.

XVI. VERIFICATION:

If the Buyer requests verification of any part of the test report, Seller shall be notified within fifteen (15) days of submission of the report to the Buyer. Failure to notify within this fifteen (15) day period acknowledges acceptance of the report. Should additional work be required for verification purposes, Seller shall be entitled to the reasonable value of the additional work involved providing the original findings are verified. Payment for any test program and applicable test report shall not be contingent upon acceptance and/or approval of a third party.

XVII. SPECIFICATIONS:

Should Seller be requested to submit a quote without having first received and reviewed the applicable test specifications, any prices submitted shall be subjected to revision when such specifications are made available to Seller.

XVIII. TECHNICAL COST CHANGE:

The representative of the Buyer's organization on-site at DTB is to be authorized to make technical and/or cost changes of any nature to the test procedures, specification, or other governing documents.

XIX. GOVERNMENT SOURCE INSPECTION:

Should Government Source Inspection be required, the Buyer shall be responsible to notify and submit required documentation to the resident DCMA Quality Assurance Representative's Office prior to the start of the test program. (Contact Seller for further information regarding securing government source inspection.)

XX. SECURITY REQUIREMENTS:

1. This quotation is based on all test items, support equipment and associated documentation being unclassified unless identified in the RFP. The requirement to handle classified equipment or data may result in additional costs to the buyer.
2. To ensure compliance with the National Industrial Security Program, it is essential that we receive a DD Form 254, DOD Contract Security Classification Specification, signed and executed by your Facility Security Officer (FSO) BEFORE or WITH placement of the Purchase Order.
3. Visitor Authorization Letters (VALs) are required for all personnel scheduled to visit our facility in conjunction with this order.
4. All transmissions of classified documentation and hardware will be in accordance with DOD National Industrial Security Operating Manual, 5220.22M.

XXI. EXPORT CONTROL:

1. Non U.S. Persons visiting Dayton T. Brown, Inc. facility are required to provide a minimum of forty-eight (48) hours notification to our facility Security Officer (631) 589-6300 x 531. Visits by non U.S. Persons may result in additional costs to the buyer.
2. If the program contains hardware or information subject to the International Traffic in Arms Regulations (ITAR) or the Export Administration Regulation (EAR) of 1979. This information may not be exported, released, or disclosed to foreign nationals outside the United States without first complying with the export license requirements of the International Traffic in Arms Regulations (ITAR) and/or the Export Administration Regulation (EAR).



XXII. TAXES:

Any tax imposed by federal, state, or other governmental authority on the sale of merchandise or service referred to in this quotation shall be paid by Buyer in addition to the quoted purchase price.

XXIII. WARRANTY:

DTB warrants hereunder only that the testing services provided by it conform, at the time of delivery, to the specifications or other technical descriptions set forth on the seller's offer. No other warranties or representations of any kind are applicable to this offer/purchase order. THIS WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND/OR WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE, USE OR APPLICATION. To have any force or effect, all claims under this warranty must be made promptly after occurrence of circumstances giving rise thereto and must be received by DTB within 20 days from date of delivery to the Buyer.

XXVI. BUYER FURNISHED EQUIPMENT:

In the event that a resultant purchase order provides for the use by DTB of any Buyer furnished equipment, material, tooling, etc., Buyer hereby represents to DTB and warrants that any such equipment, material and tooling shall conform to all applicable specifications and understandings between the parties and shall in all other respects be suitable for the intended purpose. In no event will DTB be responsible for any delays or damages resulting from nonconforming or otherwise unsuitable equipment or material furnished by the Buyer. Aside from the responsibility of DTB to use reasonable care in protecting and handling any said equipment and material furnished by the Buyer, DTB shall have no further liability with respect thereto. Any such equipment, material, and tooling furnished by the Buyer and not consumed in the performance of testing shall be returned to the Buyer upon completion of all work hereunder in the same condition as received, reasonable/normal wear and tear excepted. Unless otherwise expressly provided, DTB shall retain title to and possession of all jigs, fixtures, tools, etc. made for or obtained for the furnishing of the testing service covered by the purchase order.

XXV. REGULAR WORKING HOURS:

The following schedule is to be considered Seller's regular work schedule unless otherwise specified. This schedule has been utilized in preparation of the attached quotation.

1. Engineering Services Dept: Monday thru Friday - 0800-1630 hours.
2. Dynamic Dept: Monday thru Friday - 0800-2400 hours.
3. Environmental Dept: Sunday thru Saturday - 24 hours/day (Test Start-up Monday thru Friday).
4. EMC Dept: Monday thru Friday - 0800-2030 hours.
5. All Other Areas: Monday thru Friday - 0800-1630 hours.

XXVI. PUBLICITY/USE OF NAME ENDORSEMENT:

Dayton T. Brown, Inc., as an independent testing laboratory, has the occasion to test a wide range of products. By entering into contracts to perform this kind of testing, Dayton T. Brown, Inc. does not directly or indirectly endorse any product or service provided, or to be provided, by any of its customers. Customers shall not in any way imply that the partial or complete test results they obtain as a result of this kind of testing is an endorsement of any such product or service they provide. The customer is free to use the partial or complete test results for internal evaluation purposes. However, they may not use the partial or complete test results or Dayton T. Brown, Inc.'s name in any advertising or promotional literature that compares their product with the product of any competitor based on the partial or complete test results or test reports Dayton T. Brown, Inc. provides.

Dayton T. Brown, Inc. will not release information it obtains from performing engineering or testing services to any party other than the party contracting for the services provided, unless ordered to do so by cognizant legal authority.