

TERMS AND CONDITIONS

1. **ACCEPTANCE OF TERMS.** THIS INVOICE IS EXPRESSLY LIMITED TO AND MADE CONDITIONAL UPON THE TERMS AND CONDITIONS CONTAINED HEREIN AND ANY OF THE PURCHASER'S TERMS IN ADDITION TO OR DIFFERENT FROM THOSE CONTAINED HEREIN ARE HERBY OBJECTED TO AND SHALL BE OF NO EFFECT. PURCHASER SHALL BE DEEMED TO HAVE ACCEPTED THE TERMS CONTAINED HEREIN (AND OBJECTIONS TO ANY TERMS CONTAINED HEREIN SHALL BE DEEMED TO HAVE BEEN WAIVED) IF WRITTEN NOTICE IS NOT RECEIVED BY THE SELLER WITHIN TEN (10) DAYS OF THE DATE OF THIS INVOICE. PURCHASER WILL IN ANY EVENT BE DEEMED TO HAVE CONSENTED TO AND ACCEPTED ALL TERMS AND CONDITIONS CONTAINED HEREIN IF ANY PART OF THE GOODS DESCRIBED HEREIN ARE ACCEPTED BY THE PURCHASER.
0. **TERMS.** Net cash thirty (30) days from date of invoice, unless otherwise noted herein, F.O.B. shipping point. Shipments and deliveries hereunder shall at all times be subject to the approval of the Seller's Credit Department. In the event of Purchaser's default of any obligation hereunder, Seller may at its option cancel or delay shipments and if the financial condition of Purchaser at any time is such as to give Seller, in its judgment, reasonable grounds for insecurity concerning Purchaser's ability to perform its obligations hereunder, Seller may require full or partial payment in advance and suspend deliveries until such payment has been received. Failure to furnish such payment within ten (10) days of demand by Seller shall constitute a repudiation of the contract, and Seller shall be entitled to receive reimbursement for its reasonable cancellation charges. Seller shall not be liable for any costs or expenses of Purchaser arising out of the exercise of any of Seller's rights hereunder.
1. **FORCE MAJEURE.** Seller shall have no liability for any delays or non-performance due to strikes or other labor disturbances, fire, flood, shortage of materials, delays in transit, force majeure, government priority or other regulations, delay or failure by Seller's suppliers to deliver or other causes beyond Seller's control or any other commercial impracticability, whether similar or dissimilar to the foregoing.
2. **DAMAGE IN TRANSIT.** Seller assumes no responsibility for damage in transit.
3. **NO WARRANTY BY SELLER.** SELLER GRANTS NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO DESCRIPTION, QUALITY, PRODUCTIVENESS, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSES, OR ANY OTHER MATTER, OR THE GOODS SOLD HEREUNDER.
4. **LIMITATION OF LIABILITY.** SELLER SHALL NOT BE RESPONSIBLE OR LIABLE FOR CONSEQUENTIAL OR OTHER DAMAGES ARISING OUT OF OR OCCURRING IN CONNECTION WITH THE SALE, DELIVERY, USE, PERFORMANCE, OR SERVICE OF THE GOODS SOLD HEREUNDER. PURCHASER FURTHER AGREES THAT SELLER WILL NOT BE LIABLE FOR ANY LOST PROFITS OR FOR ANY CLAIMS OR DEMANDS AGAINST PURCHASER BY ANY OTHER PARTY. IN NO EVENT WILL SELLER BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE RISK OF LOSS OR DAMAGE WITH RESPECT TO ANY GOODS SUPPLIED OR SOLD BY SELLER TO PURCHASER WILL BE BORN EXCLUSIVELY BY PURCHASER. IN ANY EVENT, SELLER'S AGGREGATE LIABILITY FOR DAMAGES UNDER THIS AGREEMENT OR INVOICE SHALL IN NO CASE EXCEED THE PURCHASE PRICE PAID BY THE PURCHASER FOR THE PARTICULAR GOODS INVOLVED. ALL CLAIMS FOR DEFECTS, SHORTAGES OR DELAYS RELATING TO THE GOODS SOLD HEREUNDER MUST BE MADE IN WRITING TO SELLER WITHIN FIVE (5) DAYS OF RECEIPT OF SUCH GOODS. SELLER SHALL NOT BE LIABLE FOR ANY CLAIMS NOT MADE WITHIN SUCH TIME PERIOD.
5. **LATE PAYMENT PENALTY AND COLLECTION COSTS.** Should it become necessary to place Purchaser's account for collection, Purchaser shall pay all costs and expenses thereof, including a reasonable attorney's fee. Should Purchaser fail to pay any amount required to be paid by Purchaser to Seller, on the due date thereof, Purchaser shall pay to seller interest on such delinquent payment from the due date thereof until paid at the rate of one percent (1%) per month, but in any case not to exceed the maximum lawful rate.
6. **RISK OF LOSS: SHIPMENT.** Purchaser assumes and shall bear the entire risk of loss or damage to any goods sold hereunder and shipped by Seller from and after delivery to carrier.
7. **PURCHASE MONEY SECURITY INTEREST.** As security for the payment of the purchase price described herein, Seller hereby retains, and Purchaser hereby grants to Seller, a purchase money security interest in the goods and each and every item thereof, including all replacement, proceeds and products thereof.
8. **CANCELLATION.** Purchaser shall be liable for the payment of reasonable cancellation charges, which shall not exceed the price of the goods so cancelled, but shall include, without limitation, the following: (a) all costs and expenses incurred by the Seller for or on account of the goods so cancelled and the cancellation (b) any and all liabilities, costs, damages and expenses incurred by the Seller by or as a result of commitments incident to the goods involved including, without limitation, commitments made or liabilities assumed to any supplier of such goods or materials used in such goods, and (c) any and all indirect charges as well as a reasonable profit. For purposes of this Paragraph, any delivery delay requested by the Purchaser will be considered a cancellation unless agreed to in writing by an authorized representative of Seller by acknowledgment of a purchase order amendment specifying the payment of any costs and expenses imposed upon the Seller by reason of such delay.
9. **TAXES.** The prices herein specified do not include, and are exclusive of, any and all taxes, however designated, levied or based upon such prices or on this sale or the goods or the production, sale or shipment of the goods, including, without limitation any and all federal, state, municipal, local or other governmental privilege, excise, sales, use, occupational or like taxes and any taxes or amounts in lieu thereof, paid or payable by Seller in respect to the foregoing, now in force or hereinafter enacted, other than federal or state income and franchise taxes of the Seller. All such taxes shall be added to the purchase price herein provided and shall be paid by the Purchaser.
10. **CONTROLLING AGREEMENT.** It is understood and agreed that the terms, conditions and provisions of sale contained herein shall take precedence over any terms or conditions which may appear in Purchaser's order or other communication from Purchaser relating thereto, and Seller shall not be bound by Purchaser's terms and conditions unless expressly agreed to in writing. This invoice is expressly not an acceptance of terms submitted by Purchaser which are contrary hereto, and this document is a written objection to such varying terms.