

Terms and Conditions

The sale of the above identified goods is subject to the Terms and Conditions contained on Seller's Sales Quote which was accepted by Buyer (hereinafter "Agreement"). These Terms and Conditions include the following:

1.01 PAYMENT: Payment for all accounts is due in accordance with the "payment terms" set forth on the Sales Quote. If payment is not received for any Goods in accordance with the "payment terms" set forth on the Sales Quote, such unpaid balance shall bear interest at the rate of one percent (1 1/2%) per month or the maximum lawful contract rate of interest, whichever is less.

1.02 SECURITY INTEREST: Buyer hereby grants Seller a security interest in the Goods to secure payment of any amount due Seller under this Agreement.

1.03 TAXES: Buyer agrees to pay any taxes resulting from this contract directly to any taxing authority, if such tax is not charged on an invoice from Seller. If not subject to sales tax, Buyer shall provide to Seller Buyer's sales tax exemption certificate number, if applicable. Buyer shall defend, indemnify and hold harmless Seller from any and all liabilities resulting from Buyer's failure to pay taxes (other than those taxes charged on an invoice from Seller to Buyer and paid to Seller by Buyer) resulting from this Agreement.

2.01 WARRANTIES:

A. Buyer warrants that Goods shall be bought and used for industrial and commercial purposes only and shall not be for use by any consumer or for any person's personal, family, or household purposes.

B. Buyer has relied upon its own skill and knowledge and its own specifications in selecting the Goods for its use and Buyer has not relied on the skill, knowledge or expertise of Seller in selecting the Goods for Buyer's use.

2.02 DISCLAIMERS: Except as specifically set forth herein, each shipment of the Goods is sold and purchased AS IS. SELLER DISCLAIMS ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY AS TO ALL SHIPMENTS OF THE GOODS AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. There are no understandings, agreements, representations or express warranties not specified herein.

3.01 EXCLUSIVE REMEDY, LIMITATION OF DAMAGES:

A. The Buyer's sole and exclusive remedy against Seller for claims arising hereunder for any and all losses and damages shall be limited to: (1) the return of the remaining nonconforming Goods and repayment of the purchase price of the nonconforming Goods or replacement of the nonconforming Goods, whether such nonconforming Goods remain in Buyer's inventory or previously have been installed or used.

B. Liability of Seller, whether based on breach of warranty, contract, negligence, tort or otherwise, shall be limited to the remedy set forth in this section 3.01 and shall not, with respect to any claim for loss or liability arising out of or connected with the manufacture, sale, re-sale, delivery, possession, handling, installation or use of the Goods, exceed the invoice price of the Goods upon which said claim is based.

C. SELLER SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY, WHETHER ORDINARY, DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, arising from the manufacture, sale, installation, re-sale, delivery, possession, handling or use of the Goods. It is expressly agreed that the remedy provided in this section shall be Buyer's exclusive and sole remedy and is in lieu of all other remedies.

3.02 REJECTION AND NOTICE OF DEFECT:

A. Buyer agrees to fully inspect each shipment of Goods upon tender of delivery by Seller to Buyer and to perform all desired inspections and tests. Buyer must within thirty (30) days of delivery or tender of delivery, whichever occurs first, accept or reject the Goods or any commercial unit or units and give Seller written notice of any rejection and of any defect in the Goods so tendered or delivered, which defect Buyer either discovers or should reasonably discover with thirty (30) days of delivery or tender of delivery, whichever occurs first. Failure of Buyer to notify Seller shall constitute an acceptance of the Goods. Notice of any defect shall state with particularity the defect, how the Goods fail to conform, and the quantity of the Goods that are defective.

B. Except as stated above, where Buyer has accepted Seller's tender, Buyer must, within forty-five (45) days after Buyer discovers or should have discovered any breach of the warranty specified herein, notify the Seller of any such breach or be barred from remedy. For

such notice to be sufficient pursuant to this paragraph, the notice must state with particularity the warranty relied upon by Buyer to establish the breach, how the Goods fail to conform to the warranty, and the quantity of Goods that fail to conform to the warranty.

3.03 CURE: Where any tender of delivery by Seller is rejected because of nonconforming Goods, the Seller may notify Buyer of its intention to cure within thirty (30) days of Seller's receipt of notice of Buyer's rejection and Buyer's notice of the particular defect which is the basis for the rejection, whichever notice is later. Seller may then within thirty (30) days after such notice of Seller's intention to cure or make a conforming delivery.

3.04 LIMITATION OF ACTION: An action by Buyer, Buyer's agent, assignee, or successor for breach of this contract for sale or of the warranty specified herein or of any implied warranty found not to have been waived must be commenced within one (1) year after the cause of action as accrued. A cause of action accrues when the breach of this contract of sale or of the warranty specified herein occurs, regardless of Buyer's lack of knowledge of the breach. Any breach of warranty occurs when tender of delivery is made.

3.05 EXTENSION OF WARRANTY OR REMEDIES: No representative, agent or other person is authorized to extend the scope of Seller's limited warranty, to waive any disclaimer or any implied warranty, or to increase Seller's liability under Seller's limited remedy beyond the remedy stated herein.

3.06 JURISDICTION AND VENUE: ANY SUIT OR ACTION BROUGHT AGAINST ANY PARTY HERETO MUST BE BROUGHT IN THE COURTS OF THE STATE OF MISSOURI, AND THE BUYER AND SELLER BOTH CONSENT TO JURISDICTION AND VENUE IN THE COUNTY OF SAINT LOUIS, STATE OF MISSOURI, AND WAIVE ANY RIGHT THAT THEY MIGHT HAVE TO FILE OR OTHERWISE COMMENCE ANY OTHER LEGAL ACTION OR LEGAL PROCEEDING AGAINST THE OTHER IN ANY OTHER PLACE OR FORUM.

3.07 GOVERNING LAW: This agreement shall be governed by, and the rights and obligations of the parties hereto shall be construed and enforced in accordance with, the laws of the State of Missouri.

3.08 FORCE MAJEURE: In the event of war, fire, flood, strike, labor trouble, accident, riot, act of government authority, shortage of raw material essential to Seller's production, failure of Seller's suppliers or independent contractors to fulfill supply commitments or labor commitments to Seller, act of God or other contingencies beyond the control of the Seller and interfering with the manufacture, production, supply, delivery, or replacement of the Goods as ordered, Seller's liability for the Goods so affected shall be eliminated without liability to the Buyer, but the order shall otherwise remain unaffected. Buyer's exclusive remedy shall be limited to the return of any deposit or other payment made upon the affected Goods. Seller may, without liability, during any period of shortage due to any of said causes, prorate its supply of Goods among its customers in such manner as Seller may deem appropriate.

3.09 COST OF COLLECTION: Buyer shall pay any and all costs and expenditures, including reasonable attorney's fees, incurred by Seller in connection with the enforcement of Buyer's obligations under this Agreement.

4.01 NOTICES: All notices and invoices required hereunder to be given to the respective parties hereto shall be deemed to have been given or made when delivered in person or received by certified return receipt U.S. mail, postage prepaid, addressed, in the case of Seller, to Seller's principal business office and, in the case of Buyer, to Buyer's principal business office.

5.01 ASSIGNMENT: The parties agree that the benefits, duties and responsibilities under this Agreement may not be assigned, transferred or pledged by either party without the prior written consent of the other party.

6.01 WAIVER: No exercise, and no delay in exercising, on the part of either party hereto, of any right, power or privilege hereunder shall operate as a waiver thereof except as provided in the Agreement, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

7.01 NO ADDITIONAL OR DIFFERENT TERMS: This transaction is governed by Seller's standard terms and conditions of sale contained in the Agreement notwithstanding any provisions submitted by Buyer. Seller's assent to this Agreement and acceptance of any of Buyer's orders are expressly conditioned on Buyer's assent to Seller's terms and conditions herein. Seller specifically rejects any different or additional terms and conditions, and neither Seller's performance nor receipt of payments shall constitute acceptance of or assent to any different or additional terms.