

## TERMS AND CONDITIONS – ORDER ACKNOWLEDGEMENT

1. **Terms and Conditions of Sale.** The Terms and Conditions contained herein are exclusive and in lieu of all other Terms and Conditions appearing on Buyer's purchase order or elsewhere, and shall govern all sales of goods and products by Seller to Buyer regardless of the form or medium of Buyer's purchase order, and regardless of whether Seller's actions are deemed to be a prior offer of Buyer's purchase order or an acceptance thereof. In case of a conflict between these Terms and Conditions and Buyer's purchase order or any of Buyer's other terms and conditions, these Terms and Conditions shall prevail except where Seller has expressly agreed to the conflicting term in writing. Acceptance by Buyer of Seller's performance hereunder (which acceptance shall be effective immediately at the start of such performance) shall evidence Buyer's agreement to the foregoing, to the acceptance of any different or additional terms, and that any additional terms shall not constitute a material alteration of Buyer's terms.

2. **Termination.** Buyer has no right to terminate for convenience. Buyer may only terminate for Seller's material breach if Seller, after written notice, fails to cure within 30 days of receipt of such notice. Any termination by Buyer must be in writing. In the event of a termination by Buyer or Seller for any reason other than a material breach by Seller that Seller fails to cure, Buyer shall pay Seller termination charges consisting of all of Seller's costs and expenses incurred in connection with Seller's performance (including without limitation labor, material and overhead), all costs and expenses incurred as a result of the termination, any of Seller's other incidental damages and Seller's expectation damages. Regarding any breach by Buyer hereunder, Seller reserves all rights and remedies available hereunder, in equity or at law.

3. **Price.** Unless otherwise stated on the face hereof, all prices indicated in this order acknowledgement are quoted F.O.B. Seller's place of manufacture and shall be adjusted to Seller's prices in effect at the time of shipment. Prices do not include any sales, use, excise or other taxes or assessments. All sales, use, excise and other taxes and assessments shall be borne by Buyer.

4. **Payment.** The terms of payment are as stated on the face hereof. Payments not received when due bear interest at the lower of 12 percent per annum or the maximum rate allowed by applicable law. Seller reserves the right to limit, cancel or revoke the credit of Buyer at any time and for any reason, and Seller may require or demand payment or adequate assurances of performance from Buyer prior to performing any aspect of the sale of goods hereunder. Seller reserves all rights to reclaim goods delivered and not paid for upon discovery of Buyer's insolvency.

5. **Delivery.** The delivery date is only an estimate of when the product will be shipped. Seller assumes no liability for loss, damage or consequential damage due to delays. Seller reserves the right to make delivery in installments (including both advance shipments and back orders) unless Buyer expressly states otherwise in Buyer's purchase order. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delivery of an installment shall not relieve Buyer of its obligation to accept remaining deliveries. Seller shall be excused for any delay in performance or delivery due to acts of God, war, terrorism, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, quarantine restrictions, factory conditions, strikes, labor disputes, delays in transportation, shortage of transport vehicles, labor or materials, or any circumstance or cause beyond the control of Seller in the reasonable conduct of its business. Seller further reserves the right, in its full discretion, to allocate inventories and current production and to substitute suitable materials when, in its opinion, circumstances warrant such allocation or substitution.

6. **Inspection.** Buyer may inspect, or provide for inspection, at the point of receipt of shipment. Buyer shall inspect goods immediately. All claims for alleged defects in goods are waived unless Seller is notified in writing of the claim within thirty days after receipt of shipment, and Buyer and Seller agree that such thirty day time period is a reasonable time for inspection and notice. No claim shall be effective if made after the goods have been altered or used. Buyer shall afford Seller prompt and reasonable opportunity to inspect all goods to which any claim is made and to cure any non-conformance. No material shall be returned to Seller without Seller's express consent, a return authorization, and return instructions. Risk of loss as to nonconforming goods remains with Buyer until proper return to Seller as described herein. Seller reserves the right to make changes at any time in manuals, drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation or carrier. If any such changes alter the cost or the time required for performance or delivery, an equitable adjustment will be made and this agreement modified in writing accordingly. Buyer agrees to accept such changes subject to this paragraph.

7. **Title and Risk of Loss.** Title passes to Buyer upon full payment to Seller for the products. All risk of loss passes to Buyer as the products are loaded onto the carrier, and Seller is not responsible for damage or loss in transit. Except as otherwise provided herein and expressly stated with respect to shipping terms, Buyer must obtain adequate insurance to cover the products from the time risk of loss has passed from Seller.

8. **Warranty.** Seller warrants that the products delivered to Buyer will conform to the specifications thereof in all material respects, and will be free from defects in material and workmanship for six (6) months after receipt of shipment. **EXCEPT AS EXPRESSLY STATED IN THE PRECEDING SENTENCE, SELLER DISCLAIMS ALL AND DOES NOT MAKE ANY ADDITIONAL REPRESENTATIONS, WARRANTIES AND/OR INDEMNITIES OF ANY KIND (WHETHER ARISING BY IMPLICATION OR BY OPERATION OF LAW) WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION ANY REPRESENTATIONS, WARRANTIES AND/OR INDEMNITIES AS TO MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, PRICE, PATENT OR ANY OTHER MATTER. THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION HEREOF.** If any model, sample, affirmation or description were shown or given to Buyer, such model, sample, affirmation or description was used merely to illustrate the general type and quality of goods and not to represent that the products would necessarily conform to the model or sample. In any event, Buyer agrees that it has approved of any such model, sample, affirmation or description given. Seller's warranty of any product is of no effect if (i) the product is not stored or handled appropriately, (ii) the product is materially altered, (iii) the defect of the product resulted from damage occurring after receipt of shipment, (iii) the defect of the product has not been reported to Seller promptly after discovery thereof, or (iv) the defect should have been discovered by Buyer in Buyer's inspection and it is not reported within the time for objection described herein.

9. **Remedies.** **IF SELLER BREACHES THE WARRANTY PROVIDED TO THE BUYER, AND THE CONDITIONS FOR THE APPLICABILITY OF THE WARRANTY ARE MET, SELLER SHALL, AT ITS OPTION, EITHER REPLACE OR REPAIR THE NONCONFORMING GOODS OR REFUND ALL AMOUNTS PAID BY THE BUYER TO SELLER FOR SUCH GOODS. THIS IS THE EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY.** The sole purpose of this remedy is to provide the Buyer with the repair or replacement of goods or, at Seller's option, to refund the price paid by the Buyer hereunder. This remedy shall not be deemed to have failed of its essential purpose so long as Seller is willing to take one of those actions. **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER FOR BREACH OF ANY WARRANTY, FOR BREACH**

**OR REPUDIATION OF ANY OTHER TERM OR CONDITION OF THIS AGREEMENT, FOR NEGLIGENCE, ON THE BASIS OF STRICT LIABILITY, OR OTHERWISE.**

10. **Indemnification.** To the maximum extent allowed by law, Buyer must defend and indemnify Seller and its employees and agents against all costs, expenses, liabilities, losses and claims incurred by Seller as a result of (i) Buyer's negligence, use, ownership, maintenance, transfer, transportation or disposal of the products; (ii) any infringement or alleged infringement of the industrial and intellectual property rights of others arising from Buyer's manuals, drawings, plans, specifications (including Buyer's trademarks and brand names) or production of the Products as ordered by Buyer; and (iii) Buyer's violation or alleged violation of any federal, state, county or local law, rule or regulation.

11. **Confidentiality.** All information, property and rights regarding the products and services of Seller and its affiliates hereunder, including without limitation manuals, drawings, documents, specifications, samples, models and pricing schedules, shall be confidential information, property and rights of and belonging to Seller. Buyer shall not disclose any such information and shall take all precautions to protect such information from disclosure. The obligations hereunder shall survive any termination hereof. Without the express written consent of Seller, Buyer shall have no right or license to use the name or marks of Seller or its affiliates for any purpose.

12. **Statute of Limitations.** All claims and actions resulting from any action by Seller hereunder as to the products or services delivered or performed hereunder must be brought within one (1) year after such claim or action accrued.

13. **Governing Law.** The validity, construction and performance hereof is governed by, and must be construed in accordance with, the internal laws of the state of Missouri, without regard to its conflicts of law provisions, including without limitation the Uniform Commercial Code. Buyer and Seller irrevocably consent to the venue of the courts having situs within Jasper County, Missouri and consent and submit to the jurisdiction of any court located within such county. The U.N. Convention on Contracts for the International Sales of Goods does not apply.

14. **Assignment, Successors and Assigns.** Seller may assign or subcontract its rights and obligations hereunder. Buyer may not assign any interest herein or delegate any obligation hereunder. This agreement and these Terms and Conditions shall be binding upon the parties successors and permitted assigns.

15. **Entire Agreement.** This document comprises the complete and final agreement between Seller and Buyer and supercedes all prior negotiations, proposals, representations, commitments, understandings or agreements between Seller and Buyer, either written or oral, on its subject. No other agreement, quotation or acknowledgment in any way purporting to modify any of the terms hereof is binding upon Seller unless made in writing and signed by Seller's authorized agent. This agreement may not be altered or modified except by written agreement of Seller and Buyer. Any other representations or warranties, statements, models, samples, affirmations, descriptions or advice made by any person, including employees or other agents of Seller, that are inconsistent herewith must be disregarded by Buyer and are not binding upon Seller. The waiver by Seller of any breach by Buyer of any provision hereof shall not be construed to be either a waiver of the provision itself as to subsequent application or any other provision hereof.

16. **Severability.** If any provision of the Sales Agreement is held by a court of competent jurisdiction to be contrary to law or public policy, the remaining provisions of the Sales Agreement remain in full force and effect.