

Terms & Conditions of Sale

The following Terms & Conditions, together with any other terms and conditions specifically agreed to in writing by Seller, shall apply to all orders and sales of products and services between Buyer and Seller. Any acceptance of any order from Buyer is conditioned upon these Terms & Conditions. Any additional or different terms and conditions proposed by Buyer in any document shall not be binding upon Seller. These Terms & Conditions are considered as an integral part of the Sales Order.

QUOTATIONS – All quotations are subject to change without notice, are subject to prior sale, and unless otherwise agreed are binding only for immediate acceptance. All sales are made subject to strikes, accidents, or other causes of any kind beyond our reasonable control. We reserve the privilege to cancel orders upon which full specifications have not been given within the time agreed.

PRICES – All prices, quotations, shipments and deliveries are Ex Works, unless otherwise stated on the Sales Order or Invoice. Pricing is subject to change based upon market conditions. Prices do not include taxes, including but not limited to Value Added Tax (VAT) or governmental charges.

ORDERS – Not subject to cancellation without express written consent from Seller.

DELIVERY – Delivery dates are estimates subject to change due to source or carrier conditions beyond Seller's control. Quantity shortages/overages or transportation damage must be reported upon the receipt of goods and noted in detail on both the Buyer's copy and the carrier's copy of the delivery paperwork. Buyer will inspect the products within a reasonable time after receipt. If Buyer fails to notify Seller within fourteen (14) days after receipt that the products are defective in any respect, Buyer will have waived any and all rights or claims against Seller. Variation in quantity shall not exceed ten (10) percent of the order.

PAYMENT – Unless otherwise expressly provided, Seller's payment terms are net thirty (30) days from date of invoice. Acceptance of the goods ordered herein warrants that the Buyer is solvent and able to pay for the goods in accordance with the terms and conditions of sale. Unless otherwise agreed, payment shall be made in US dollars (USD/\$). Seller may charge late payment fees at the rate of 1.5% per month, accruing daily. In the event of the Buyer's bankruptcy or insolvency, Seller may immediately cancel any order then outstanding.

TECHNICAL ADVICE – None of our agents, employees or representatives have any authority to bind us to any affirmation, representation or warranty other than those stated herein or on our Sales Order or Invoice. Unless an affirmation, representation or warranty is specifically included or referred to herein or on our Sales Order or Invoice, it shall not be enforceable against us. In particular, any technical advice we furnish with respect to the use of material is given without charge, and we assume no obligation or liability for the advice given to the results obtained, all such advice being given and accepted at Buyer's risk.

LIMITED WARRANTY – We warrant that all material, at the time of shipment by us, shall conform to any specifications set forth on the face of the Purchase Order and as accepted on our Sales Order, and shall conform to the description contained in the Material Test Reports if either has been furnished by us in connection with a sale. We disclaim all other warranties with respect to material sold or services rendered, whether expressed or implied, including the warranties or merchantability and fitness of the material or services for any particular purpose. By placing an order with us, Buyer affirms that he has not relied upon the skill or judgment of us or any of our agents, employees or representatives, to select or furnish material for any particular purpose, and the sale is made without warranty by us that the material is suitable for any particular purpose. The use of any sample in connection with a sale is for illustrative purposes only and is not to be construed as a warranty that the material will conform to the sample. Any affirmation of fact or promise made by us shall not constitute a warranty that the material will conform to the affirmation or promise. Seller's warranty obligations shall not apply to Products which (1) have been altered or repaired by someone other than Seller, or (2) have been subjected to misuse, neglect, or improper use or application, or (3) are normally consumed in operation, or (4) have a normal life inherently shorter than the warranty period stated therein.

RETURNS – No products may be returned unless authorized in advance by Seller, and then only upon such conditions to which Seller may agree. Buyer must obtain a Return Material Authorization (RMA) number from Seller prior to any return shipment, and such RMA number must appear on the shipping label and packing slip. Buyer shall be responsible for all charges related to packing, inspection, shipping, transportation or insurance associated with returned products.

LIMITATION OF LIABILITY – The total liability of Seller on any claim, whether in contract, tort (including negligence of any degree and strict liability) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any products/services, shall not exceed the price allocable to the Products/Services or part thereof which gives rise to the claim. In no event, whether as a result of breach of contract, warranty, tort, (including negligence of any degree, strict liability or patent infringement) or otherwise, shall Seller, its affiliates, subcontractors, or suppliers be liable for any loss of profit or revenues, loss of use of the products/services, or any associated equipment, cost of capital, cost of substitute goods, facilities, services or replacement power, downtime costs or claims of Buyer's customers for damages or for any special, proximate, consequential, incidental, indirect or exemplary damages.

FORCE MAJEURE – Seller shall not be liable for damages for any delay or failure in the performance of this Agreement from any cause beyond its reasonable control. Such causes shall include, but not be limited to; acts of God, strikes, riots, sabotage, war, fire, explosion, snow, ice, floods, accidents, epidemics, governmental order or regulations or inability to secure any necessary governmental or other permits, court orders, breakdown in machinery or despite seller's due diligence, the failure of its suppliers to provide materials in a timely manner.

EXCLUSIVE REMEDY – We will, at our option and as a Buyer's exclusive remedy, replace with new material, or refund the purchase price for, material that in our opinion is defective if Buyer gives written notice of the defect to us within thirty (30) days after receipt. Our obligation shall not extend to any material that, in our judgment, has been affected by damage or wear resulting from operations performed after the sale, or from misuse, abrasion, corrosion, negligence, accident, tampering, faulty installation, inadequate maintenance, damage or casualty. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as we are willing and able to replace defective material or refund the purchase price within the time specified. Under no circumstances will we be responsible for any other damage, including any direct or consequential damage or loss, arising from contract, tort or otherwise, including, without limiting the generality of the foregoing, loss or damage to buildings, contents, products, or persons. Buyer must immediately discontinue use of any item claimed to be defective. No charge for labor or expense required to repair defective material or occasioned by it will be allowed.

LIMITATIONS ON ACTIONS – No action against us for breach of any sales agreement may be brought more than one (1) year after the cause of action accrues.

ACCEPTANCE – These terms and conditions apply to all quotations, orders and invoices covering the sale of our products and services. Our acceptance of an order is expressly made conditional on Buyer's acceptance of the terms and conditions set forth herein. The terms and conditions set forth herein (together with the corresponding purchase orders and invoices) constitute the complete agreement between Buyer and Seller, and may be accepted only in accordance with these terms. They may not be modified except by written agreement referring specifically to these terms and conditions and signed by a duly authorized officer of Seller. Any provisions of Buyer's Purchase Order which are inconsistent with the foregoing shall be of no force and effect, unless Seller has agreed to a modification of these terms and conditions in the manner set forth herein. Buyer's failure to dissent from the terms and conditions, or Buyer's acceptance or use of the Seller's goods or services, shall constitute Buyer's acceptance of these terms and conditions. Any order accepted by Seller shall not be assigned, sold or otherwise transferred by Buyer unless Seller expressly agrees in writing to such sale, assignment or other transfer.

GOVERNING LAW - This Agreement shall be governed by the Uniform Commercial Code as adopted by the State of New Jersey. Buyer consents to the jurisdiction of the state and federal courts within the State of New Jersey. Service of process by certified or registered mail shall be sufficient to commence suit and obtain a judgment by default. Buyer waives any right to personal service of process. Notwithstanding anything contained herein to the contrary, if Seller so directs, any controversy or claim arising out of or related to this Agreement or the performance or breach thereof shall be resolved by binding arbitration in accordance with the rules and procedures then obtaining of the American Arbitration Association.

SEVERABILITY - Waiver by Seller of any breach by Buyer of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach or the failure of Seller to exercise any right arising from any default of Buyer hereunder shall not be deemed to be a waiver of such right, which may be exercised at a subsequent time.

EXPORT CONTROLS; FCPA; ANTI-BOYCOTT - Buyer shall not make any disposition of the Products, by way of transshipment, re-export, diversion or otherwise, except as applicable US export laws and regulations may expressly permit, and other than in and to the ultimate country of destination specified on order(s) or declared as the country of ultimate destination on Seller's invoices or in the End Use Statement that Buyer supplies Seller. Seller shall not be named as shipper or exporter of record or US principal party-in-interest (USPPI) unless specifically agreed to in writing by Seller in which case, Buyer shall provide Seller with a copy of the documents filed by Buyer for Export clearance purposes. At Seller's request, Buyer shall supply end-use and end-user information to determine export license applicability. Failure of Buyer to comply with this section shall constitute a material default allowing Seller to cancel related order(s) without liability. Buyer warrants that it shall not violate or cause the Seller to violate the US Foreign Corrupt Practices Act of 1977 (FCPA), as amended, or respective implementing regulations in connection with Buyer's sale or distribution of the Products and/or Services, and that Buyer does not know or have reason to believe that any consultant, agent, representative or other person retained by Buyer in connection with the sale and/or distribution of Products/Services has violated, nor caused Seller to violate the FPCA. Where Buyer learns of or has reason to know of any violation of FCPA in connection with the sale or distribution of Products/Services, Buyer shall immediately advise Seller. Buyer further warrants that Buyer shall not violate or cause Seller to violate the U.S. Anti-boycott Provisions of the U.S. Export Administration Regulations issued pursuant to the U.S. Export Administration Act of 1979, as amended, in connection with Buyer's purchase of products/services and that Buyer shall not request or require Seller to make statements or certifications against countries that are not subject to boycott by the US.

PATENTS/INDEMNITY - If Buyer receives a claim that Products, or part thereof manufactured by Seller infringes a patent, Buyer shall notify Seller promptly in writing and give Seller information, assistance and exclusive authority to evaluate, defend and settle such claim. Where Buyer has furnished specifications/designs for the manufacture of the allegedly infringing products, Buyer shall defend, indemnify and hold harmless Seller against third-party claims for infringement arising out of Seller's use of such specifications/designs.