

TERMS AND CONDITIONS

1. Acceptance - If the Terms and Conditions of this acknowledgment differ in any way from the terms and conditions of Buyer's order this acknowledgement will be construed as a "COUNTEROFFER" and will not be effective as an acceptance of Buyer's terms and conditions which conflict herewith. The Terms and Conditions contained herein will be the complete and exclusive statement of the terms of the agreement between the parties. Buyer's acceptance of the goods sold hereunder will manifest Buyer's assent to the Terms and Conditions hereof. No addition to or modification of any of these Terms and Conditions will be effective unless made in writing and signed by Seller.
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IT IS EXPRESSLY UNDERSTOOD THAT ANY TECHNICAL ADVICE FURNISHED BY SELLER WITH RESPECT TO THE USE OF ITS GOODS OR SERVICES IS GIVEN with specific parameters in mind and because performance varies with method of use SELLER ASSUMES NO OBLIGATION OR LIABILITY FOR THE ADVICE GIVEN ON RESULTS OBTAINED by Buyer. ALL SUCH ADVICE BEING GIVEN AND ACCEPTED AT BUYER'S RISK.
THE SOLE AND EXCLUSIVE WARRANTIES GIVEN BY SELLER WITH RESPECT TO THE GOODS SOLD HEREUNDER ARE THAT IT HAS TITLE TO SUCH GOODS FREE AND CLEAR FROM ANY LIEN OR ENCUMBRANCE AND THAT SUCH GOODS SHALL CONFORM TO THE DESCRIPTION AND SPECIFICATIONS SET FORTH HEREIN. SHOULD SELLER BREACH EITHER OR BOTH OF THESE WARRANTIES BUYER'S ONLY REMEDY AND THE SELLER'S ONLY OBLIGATION SHALL BE THE REPLACEMENT OR REPAIR BY SELLER OF SUCH NON-CONFORMING GOODS, F.O.B. SELLER'S PLANTS/SELLER WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, OR ANY DAMAGES OTHER THAN REPAIR OR REPLACEMENT OF DEFECTIVE GOODS FOR SUCH DEFECTIVE GOODS, AT SELLER'S OPTION.
Every claim from any cause shall be deemed waived by the Buyer unless made in writing within ninety (90) days of the receipt by Buyer of the goods to which such claim relates, or, if the goods are to be stocked for resale, within ninety (90) days of the date of shipment from Buyer and Buyer's customer, provided that all such claims must be submitted in writing to Seller within one (1) year from receipt by Buyer of the goods to which such claim relates. No legal proceeding shall be brought for any breach of this contract more than one (1) year after the accrual of the cause of action therefore.
3. Quantities Shipped - Weights and quantities shown hereon are estimated. Invoice weights may vary in accordance with permissible variations as shown in Seller's published price lists.
4. Credit - All sales are subject to the approval of Seller's credit department.
5. Payment - All bills rendered are payable in US Dollars
6. Force Majeure - Seller shall not be liable for any delay in delivery, or failure to deliver, due to any cause beyond the Seller's control, including but not limited to fires, floods, strikes, or other labor disputes, accidents to machinery, acts of sabotage, riots, precedence or priorities granted at the request or for the benefit, directly or indirectly, of the federal or any state government or any subdivision or agency thereof, delay in transportation or lack of transportation facilities, restrictions imposed by federal, state or other governmental legislation or rules or regulations thereof.
If Seller in its sole discretion determines that Seller's performance hereunder would result in a loss to Seller on this sale as computed under Seller's normal accounting procedures because of causes beyond Seller's control, then the Seller may terminate this agreement in whole or in part without liability for any delay in the delivery of, or failure to deliver, the goods sold hereunder.
7. Risk of Loss - Buyer will assume risk of loss to the goods covered hereby upon delivery thereof to the carrier.
8. Taxes and Other Charges - The Buyer will pay, or reimburse Seller if it pays, any and all taxes or tariffs or any other similar charges imposed upon this contract, the goods covered hereby or the delivery or use thereof or upon any act done or document or title or instrument used in connection with the transaction, and any and all taxes, tariffs or charges imposed upon or measured by the sales contemplated herein or the purchase price payable hereunder.
9. Freight Charges - If the sale hereunder is other than f.o.b. Sellers's plant, this acknowledgement is based upon the freight charges now in effect. In the event of an increase or decrease in applicable freight charges before the goods are shipped, such change in freight will be for the Buyer's account.
10. Resale of Goods Sold Hereunder - In the event of any of the goods sold, hereunder, in whatever form, Buyer will include the following language in a conspicuous place in the agreement covering such resale:
Warranties by manufacturers and sellers of goods sold hereunder, are limited to such written warranties as may be applicable to the individual items sold hereunder, which warranties are limited to repair or replacement of the goods at the manufacturer's or seller's option, within the time limit specified.
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MANUFACTURERS AND SELLERS WILL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL OR ANY DAMAGES OTHER THAN REPAIR OR REPLACEMENT OF DEFECTIVE GOODS, AT MANUFACTURER'S OR SELLER'S OPTION.
11. Export Control - The Buyer acknowledges that U.S. export control laws and regulations apply to any product purchased from the Seller, including the Export Administration Regulations of the U.S. Department of Commerce, which prohibit the export or re-export of products and technology to certain countries and persons. You agree to comply strictly with all U.S. export laws, regulations and orders, and assume sole responsibility for obtaining any required licenses to export or re-export products or technology.
12. Patent or Trademark Infringement - If the goods sold hereunder are to be prepared for manufacture according to Buyer's specifications, Buyer shall indemnify Seller against any claims or liability for patent or trademark infringement on account of such preparation or manufacture.
13. Applicable Law - All questions arising in connection with the quotation, any order submitted in connection therewith the acknowledgment or counter offer made in response to any such order or the sale of the goods, covered hereby shall be resolved in accordance with the laws of the State of California.
14. Equipment and Tools - Notwithstanding payment of amount quoted for special, dies, tools, jigs or the like, Seller retains title and Buyer has no right to remove such equipment from Seller's plant. In the event of no reorder by Buyer for a period of three years from the last invoice date, Seller has the right to scrap such equipment without notice to Buyer.