

TERMS AND CONDITIONS

This order is subject to the following terms and conditions in addition to those stated on the front side hereof:

- (1) **Acceptance:** The offer of the Customer to purchase will be accepted only on the terms set forth herein which supersede any conflicting terms on Customer's purchase order or other purchase document issued in connection with this transaction.
- (2) **Disclaimer of Warranties and Limitation of Liability:** Goods made by others carry such warranties as may be given by the manufacturers thereof and no additional warranty of Seller, express or implied, shall be attached thereto. Seller warrants, to the original Purchaser, items of its own manufacture against defects in material and workmanship under normal use and service for a period of twelve (12) months from date of shipment (except upholstery, which warranty is for a period of ninety (90) days) unless otherwise specified hereon. This warranty is conditioned upon Customer giving Seller immediate written notice upon discovery of any defect. Seller shall, at its option, require the return of the defective item, transportation prepaid, to establish the claim and shall not be responsible for freight charges for return of any item. Seller's liability for damages resulting from any cause whatsoever shall in no event exceed the cost of repair or replacement of damaged or defective parts. Seller shall not be held liable and no allowance shall be made for repairs or alterations made without Seller's written consent or approval. Seller shall not be held responsible for work done, apparatus furnished or repairs made by others. Seller does not warrant any of the goods sold hereunder to meet or comply with the requirements of any safety code, regulation or law of any governmental entity. Customer takes any used goods "as is" and with all faults or defects unless a modification is endorsed hereon or in a separate writing signed by Seller. **THE FOREGOING UNDERTAKING IS IN LIEU OF ANY OTHER WARRANTIES, INCLUDING ALL WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXPRESS OR IMPLIED, AND SELLER SHALL NOT BE LIABLE FOR DEFECTS IN OR FOR ANY DAMAGES OR LOSS TO THE PROPERTY SOLD NOR CAUSED BY THE PROPERTY SOLD UNLESS A SPECIAL SELLER'S WARRANTY IS EXPRESSLY WRITTEN ELSEWHERE HEREON OR IN A SEPARATE WRITING SIGNED BY SELLER. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY INDIRECT SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES TO THE CUSTOMER OR TO ANY THIRD PARTY.**
- (3) **Risk and Liability:** Customer assumes all risk and liability for property damage or bodily injury including, without limitation, claims by Customer or third parties for special, indirect or consequential damage arising from the storage, use, and/or operation of the goods. Customer agrees to indemnify, defend and hold Seller harmless from all such claims.
- (4) **Excusable Delivery Delays:** Delays in delivery shall be excused when caused by strikes, lockouts, accidents, fire, delays to manufacturer or carrier, acts of God, embargoes or governmental action or any other cause beyond the reasonable control of the Seller, whether the same as or different from the matters at hand specifically herein before enumerated, and, if for such reasons. Seller is unable to make delivery within a reasonable time after the stipulated time for delivery. Seller may, at its option, cancel this order without liability except for return of the amounts paid on this order. All property as above described in hands of Seller at contract date of delivery and delivery of which is delayed by fault of Customer, by reason of failure to furnish shipping instructions, refusal to accept or otherwise, may be billed at contract price and held at risk of Customer for delivery upon his order. The acceptance of shipment by a common carrier or licensed public truckman shall constitute a delivery. Or in the absence of shipping instructions, the mailing of a detailed invoice shall constitute a delivery. Shipments made within thirty (30) days after specific date of delivery shall constitute a good delivery or tender made within thirty (30) days after specified date of delivery shall constitute a good tender, and in the case of shipments delayed due to exercised Government Priority the Customer agrees to accept when shipment can be completed.
- (5) **Responsibility for Shipment:** The Seller's responsibility for shipment ceases upon delivery to Customer or to the transportation agency. Any claims against the Seller for shortage in shipments shall be made within fifteen (15) days after receipt of shipment.
- (6) **Security Interest:** Seller shall have a security interest in the goods delivered hereunder until the total selling price, including taxes, delivery and other charges is paid in full by Customer. Customer agrees on demand to execute and deliver to Seller any additional security agreements, financing statements and other documents as may be required by the Seller to secure the purchase price. In the event the purchase price is not fully prepaid and the Customer fails to execute and deliver to this Seller such documents the entire balance of the purchase price shall, at the Seller's option, become immediately due and payable.
- (7) **Taxes:** Unless otherwise stated, the quoted prices do not include sales, use or similar taxes. Such taxes shall be paid by the Customer. Consequently, in addition to the quoted prices in effect at the time of sale, lease or rental, the amount of any present or applicable sales, use or similar tax applicable to the sale, lease, or rental of the property hereunder shall be paid by the Customer, or in lieu thereof the Customer shall provide a tax exemption certificate acceptable to the taxing authorities.
- (8) **Risk of Loss:** The property shall at all times after delivery to Customer, Customer's agent or a transportation company, whichever first occurs, be the sole responsibility of Customer, and all loss or damage to said property or any part thereof occasioned by fire or in any other manner whatsoever, shall be borne by Customer and shall not operate to extinguish or diminish liability of Customer to Seller. Any property covered hereby shall be insured by Customer at Customer's sole expense against fire and other hazards generally covered by extended fire coverage insurance for the full insurable value thereof to the full extent of any balance of the purchase price remaining unpaid.
- (9) **Patent Infringement:** Seller shall not be liable for patent infringement for any repair or manufacture to Customer's specifications or samples. Customer agrees to defend, indemnify and hold Seller harmless from and against any claim for patent infringement.
- (10) **Interest on Past Due Payments:** Past due accounts shall bear interest at the rate of one and one-half percent (1 1/2%) per month. This is an annual percentage rate of eighteen percent (18%). In the event of any transaction at a time and place where such rate of interest would be usurious under applicable law, such rate of interest shall be reduced to the maximum rate allowed by such applicable law.
- (11) **Disputes:** This agreement between Seller and Customer and its enforcement shall be governed by the laws of the State of Washington. No dispute, controversy or question arising hereunder may be subject to arbitration at Customer's instance without the prior express written consent of Seller and no provision of these terms and conditions constitute such consent. Customer and Seller agree that proper jurisdiction and venue for any legal action arising hereunder shall be in Small Claims Court, District Court and/or Superior Court of the State of Washington for Kitsap County. In the event suit or action is instituted to enforce any right provided for herein, the prevailing party shall be entitled to recover from the other party its costs and disbursements incurred together with reasonable attorney's fees.
- (12) **Price Variation:** The price on any undelivered portion of this contract is subject to increase due to any governmental action or further legislation and/or governmentally accepted codes affecting Seller's cost, and deliveries may be modified to the extent necessitated by any such action, legislation and/or codes.
- (13) **Property included:** Where applicable herein, the words "property" and "goods" will include labor and/or services.
- (14) **Complete Agreement:** Seller does not recognize printed matter or any of Customer's orders, confirmations other documents except to the extent of shipping and routing instructions and as may be otherwise expressly agreed to in writing by Seller.