

TERMS & CONDITIONS OF SALE

1. ORDER ACCEPTANCE; ENTIRE AGREEMENT: Orders are subject to acceptance by Seller at its offices in DeKalb, IL and are accepted and products are delivered under the express condition that Buyer assent to these Terms and Conditions of Sale (herein "Conditions"), as evidenced either by Buyer's signing Seller's Order Acknowledgement, or Buyer's failure to object within fourteen (14) days after the Order is Accepted, or Buyer's acceptance of products. These Conditions serve as Seller's rejection of anything inconsistent with or additional thereto, which shall be inapplicable and of no effect unless expressly agreed to by Seller in another written document. Seller's General Order Information, Quotation, Order Acknowledgement or Invoice with these Conditions, together with Buyer's order, to the extent of inconsistent with these Conditions, constitute the modification, limitation, waiver, termination, rescission or discharge of the Agreement shall be effective unless in another written document signed by both Buyer and Seller.

2. ORDER CHANGES: A change from the original order after Seller's Order Acknowledgement has been issued may require a revised price and shipping schedule in the event that Seller has expended manpower and/or secured product which is not suitable for use with the revised order, change order charges will be imposed.

3. ORDER CANCELLATION POLICY: Accepted orders shall be subject to cancellation charges in the amount of Seller's costs incurred, direct or indirect, prior to receipt of written notice of cancellation plus an additional charge representing liquidated damages of 15% of the total order price computed as of the date of cancellation. The additional charge of this cancellation provision shall not apply if the project for which buyer ordered the product has cancelled and buyer has no need for the product from any other supplier.

4. PRICES: Product will be invoiced at Seller's prices as specified in Seller's Quotations or Order Acknowledgements, which may include a price adjustment clause.

5. TERMS OF PAYMENT AND PAYMENT TERMS: For Seller's terms are net cash thirty (30) days from date of Invoice, subject to credit approval. Seller shall be entitled to refuse, modify, or withdraw extension of credit at any time. Buyer represents that Buyer is not commercially insolvent. Buyer will pay Seller interest on any overdue amounts at the maximum legal rate of interest together with all costs of collection including but not limited to, reasonable attorney's fees. If Buyer is in default under this or any other agreement with Seller, then Seller upon written notice to the Buyer may suspend fabrication and/or shipment under this agreement for a period of thirty (30) days. If within that period the Buyer has not rectified all such defaults, then Seller may cancel this Agreement or any balance of shipments immediately without prejudice to claims for payment for products already shipped or ready for shipment or for damages (including cancellation charges) for work already begun or commitments, obligations, expenditures, expenses or costs incurred in relation to the order. Seller can credit against amounts due hereunder any amounts owed to Buyer by Seller or its affiliates. Each delivery by Seller shall be considered a separate transaction and be invoiced separately without regard to subsequent deliveries.

6. SHIPMENT: DAMAGE IN SHIPMENT: Orders for product in stock or warehouse are acknowledged by Buyer as subject to prior sales. Shipping predictions shall be calculated from the date of receipt at the Seller's works of full manufacturing details. Any time named by the Seller for shipment is only an estimate, and Seller shall not be liable for any losses or damages (compensatory, incidental or consequential) resulting directly or indirectly from any delay in shipment. Seller may ship product in advance of the schedule. Buyer shall inspect all packing and contents upon receipt and receipt to carrier according to facts. In a case of injury by carrier, Seller, if requested by Buyer, will make claims on behalf of Buyer provided the necessary data to substantiate such claims are submitted within the applicable statutory period.

7. WARRANTY: Seller warrants that the products covered by this Agreement will conform to Seller's description of the products sold and will be within the specifications and tolerances shown in the appropriate PRODUCT SPECIFICATION sheets, and that the title to such products will be clear and free from any incumbrances. SUCH WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR BUYER'S PARTICULAR PURPOSE ALTHOUGH SUCH PURPOSE MAY BE KNOWN TO THE SELLER. Seller shall not be liable for any design assistance provided to the Buyer regardless of any special knowledge that the seller possesses concerning Buyer's intended use, and Buyer acknowledges that it has not relied on the Seller's advice, if any or as to the suitability of either the design or product for its intended purpose. Buyer warrants that it is using the products alone or along with other products in a manner that is safe and effective and meets all legal standards and codes both express and implied, for safety and effectiveness. Buyer shall properly dispose of all scrap which includes Buyer's products.

8. BUYER'S EXCLUSIVE REMEDIES: Buyer shall not have any right to assert any claim against Seller as to any product unless Seller is notified of the claim within thirty (30) days after receipt of such product by Buyer, a time period which Buyer agreed is reasonable for the purpose, and then only after the Seller has inspected such products, and the Buyer and Seller have mutually agreed that there is a basis for the claim. IN THE EVENT OF SELLER'S LIABILITY AS TO ANY PRODUCT, WHETHER BASED ON CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, BUYER'S SOLE AND EXCLUSIVE REMEDY WILL BE FOR SELLER, AT ITS OPTION, TO REPAIR, REPLACE, OR EXCHANGE SUCH PRODUCT OR REFUND THE PURCHASE PRICE, IN NO EVENT WILL SELLER BE LIABLE FOR LOSS OF INCOME, LOSS OF PROFITS, OR CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES RESULTING FROM ANY BREACH, LIABILITY, DEFAULT OR DELAY OF PERFORMANCE BY SELLER UNDER THIS Agreement. Every right, exception from liability and defense of whatever nature to which the Seller is entitled hereunder shall extend to product every agent or employee of the Seller, and for the purpose of the foregoing provision the Seller's shall be deemed to be acting as agent or trustee on behalf of its employee and agents.

9. APPLICABLE LAW: ARBITRATION; VENUE: This agreement shall be governed by the laws of the State of Illinois, U.S.A. Any controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof, shall be submitted to mediation under the Center for Public Resources ("CPR") Model Procedure for Mediation of Business Disputes and if that is not successful shall be settled by arbitration in accordance with the CPR Rules for Non-Administered Arbitration of Business Disputes, by three arbitrators none of whom shall be appointed by either party. The arbitration shall be governed by the United States Arbitration Act. 9 U.S.C. S 1-16, and judgment upon the award rendered by the arbitrators may be entered by any court having jurisdiction thereof.