

## TERMS AND CONDITIONS

1. **APPLICABILITY.** The Buyer named in the attached order (the "Buyer") of the supplies, services, products, or equipment covered by such order (the "Products") by submitting such order, or otherwise accepting the Products, accepts that these Terms and Conditions (the "Terms") shall exclusively govern the relationship between the Buyer and the seller of the Products ("Seller") to the exclusion of any other terms and conditions and warranties whether written or oral, express, implied, even if contained in any of the Buyer's documents which purport to provide that the Buyer's own terms shall prevail, and together with the applicable order shall be a valid and binding contract. All descriptions, statements, details, specifications, or other descriptive matter contained in any of Seller's promotional materials whether oral or in writing are approximate only and shall not form part of the description of the Products and Seller shall not be under any liability in respect thereof. All contrary or additional terms or conditions of sale are hereby rejected unless otherwise indicated in a written instrument executed by Buyer and Seller prior to the date of this order.

2. **WARRANTY AND LIABILITY.** The Products are sold "as is" with no warranties of any kind except that SELLER WARRANTS THAT THE PRODUCTS ARE AS DESCRIBED IN THE ATTACHED ORDER, SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SELLER. THE REMEDY FOR ANY BREACH OF ANY WARRANTY (WHETHER EXPRESS, IMPLIED OR STATUTORY) OR ANY DEFECTIVE OR DAMAGED PRODUCTS OR FOR ANY CLAIM RELATED TO PRODUCTS SOLD IS STRICTLY LIMITED TO RETURN OF THE PRODUCTS BY THE BUYER AND THE REPLACEMENT OR REFUND OF THE PURCHASE PRICE AT THE OPTION OF SELLER. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO THE BUYER, OR ANY THIRD PARTY, FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR LOST PROFITS OR LOST REVENUES WHETHER SUCH CLAIM IS BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, (EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION SHALL APPLY NOTWITHSTANDING A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW.

3. **PRICES.** Unless otherwise specified by Seller, all prices are F.O.B. Seller's facility. Where delivered prices are quoted, they are subject to increase or decrease to the extent of any change in freight rates. Seller reserves the right to choose the method of delivery. Unless otherwise specified, the prices quoted are exclusive of all taxes, duties, levies, insurance or other charges. The amount of sales, excise or other taxes, if any, applicable to the Products, shall be added to the purchase price and shall be paid by Buyer unless Buyer timely provides Seller with an exemption certificate accepted by the taxing authorities. If any price or change in price ceases to be effective and cannot become effective by reason of any laws, rules, regulations or order of any governmental authority, Seller may at its option terminate an applicable order as of the date the price or price increase ceased to be effective, or the price change would come into effect, as the case may be. Buyer shall be responsible for all costs incurred by Seller in collecting any amounts due hereunder. If Buyer fails to fulfill the terms of payment on any order, Seller, in addition to its rights and remedies, but not in limitation thereof, may, defer all further shipments until such payments are made, or may, at its option, cancel the order.

4. **DELIVERY.** Shipping dates are approximate and are not guaranteed. Any time stated for delivery by Seller is an estimate only and shall not form part of the contract and any failure by Seller to deliver the Products by such time shall not be a breach or repudiation and Seller shall not be liable for any loss or damage suffered by the Buyer as a result of such failure. Delivery shall be deemed to occur and title and risk of loss or damage of any kind of the Products shall pass to the Buyer on receipt by a carrier for delivery to the Buyer (whether or not such carrier is Seller's agent or servant). Seller shall arrange for the Products to be delivered to the Buyer as agent of the Buyer and subject to these Terms. Where delivery of the Products is delayed for any reason outside the reasonable control of Seller, Seller reserves the right to amend the prices for the Products to those current at the date when delivery is made. Seller reserves the right to make deliveries in installments. Delay in delivery of all installments shall not relieve Buyer of 1) its obligation to pay for all installments received prior to such delay and 2) its obligation to accept remaining deliveries. Seller reserves the right, even after partial shipment on account of any order, to require satisfactory security from Buyer for performance of Buyer's obligation. Buyer's refusal to furnish such security will entitle Seller to suspend shipments until such security is furnished, and, will entitle Seller, at its option, to cancel the order. In such event, Buyer shall nevertheless be required to pay for such shipments as may have been received by Buyer prior to Seller's cancellation of the order.

5. **ACCEPTANCE.** The Buyer must inspect the Products and notify Seller of any non-conforming or defective Products within ten (10) days

after delivery or the Products will be deemed accepted. In addition, Seller will not be liable for any shortage in the number of any Product shipped unless Seller is notified of such shortage within such ten (10) day inspection period. All claims of whatever nature, including but not limited to claims for shortage, deductions, and defective Products must be made in writing to Seller within ten (10) days of Buyer's receipt of Products. Failure to comply with the aforesaid procedure shall constitute Buyer's waiver of any such claim. Buyer must make all claims for damage or loss in transit to the transportation company. Any return of Products to Seller by Buyer must be authorized by Seller in writing. Buyer shall pay Seller all costs of collection on past due accounts including but not limited to reasonable attorneys' fees, whether or not litigation is commenced in aid thereof. The Buyer agrees to pay finance charges on overdue accounts. The current rate is 1.5% per month (18% per year compounded monthly). Seller may revise this rate at any time, provided that if it exceeds the legal rate, then said change shall be the maximum rate provided by law. The Buyer shall be charged twenty-five dollars (\$25.00) (or the maximum allowed by law) for all checks or charges returned or denied due to insufficient funds and the Buyer's account will be subject to cessation of all credit privileges.

6. **INDEMNIFICATION.** The Buyer, at its sole expense, shall indemnify and hold harmless Seller, its employees, officers, directors, shareholders, agents and independent contractors against any and all losses, costs (including court costs and reasonable attorneys' fees), damages, settlements, suits, actions, expenses, liabilities, and claims arising out of or resulting from the delivery, sale, handling, or use, or from any other cause relating to the delivery, sale, handling, or use, of the Products by or on behalf of the Buyer, or any of its personnel, clients or customers, or any other third parties who deliver, use or handle such Products.

7. **INTELLECTUAL PROPERTY.** The Buyer acknowledges and agrees that as between the parties Seller is the sole and exclusive owner of all right, title and interest, including all intellectual property rights, in and to the Products sold by Seller. If ever a third party files a claim against the Buyer that the Products violate any patents or other intellectual property rights, Seller will not be held liable to the Buyer for any damages resulting from this claim, including but not limited to costs of removal and reinstallation of Products, loss of goodwill, loss of profits or use, or payments that have to be made to a third party. Seller maintains full right, title and interest in all intellectual property rights related to Seller's Products, publications, company name, product names, trademarks and logos, and they may not be reproduced, transmitted or stored in any form without the prior written consent of Seller.

8. **CONFIDENTIALITY.** The parties agree that the terms of the applicable order are confidential. Additionally, in connection with an order, the Buyer may be exposed to the Seller's proprietary information, including, but not limited to, trade secrets and information contained in or relating to data, business information, and other documents or information which Seller may designate as confidential (the "Confidential Information"). At all times, the Buyer agrees to hold in strictest confidence and not to disclose, furnish, communicate, make accessible to any person or use in any way for the Purchaser's own or another's benefit any of Seller's Confidential Information.

9. **GOVERNING LAW.** All agreements for sales by Seller shall be governed by and construed in accordance with the law of the State of Missouri, without regard to its conflicts of law. The United Nations Convention on Purchase Orders for the International Sale of Products shall not apply to any order by the Buyer. Any cause of action arising from this contract shall be brought only in a court located in Missouri, which shall have sole jurisdiction over all controversies arising hereunder. Any action for breach of this contract must be commenced within one (1) year after the cause of action has accrued.

10. **MISCELLANEOUS.** If any provision of these Terms is held illegal or unenforceable by any court or other authority of competent jurisdiction, such provision shall be deemed severable from the remaining provisions of these Terms and shall not affect or impair the validity or enforceability of the remaining provisions of these Terms. Seller shall not be liable for failure to deliver or perform or for delays in delivery or performance occasioned by causes beyond its control, including without limitation, strikes, lockouts, fires, accidents, interruptions in the supply of materials, breakdowns, delays in carriers or suppliers, and governmental actions and regulations. The waiver by any party of a breach of any term or provision of these Terms shall not be construed as a waiver of any subsequent breach of any term or provision. The Buyer may not assign, delegate, or otherwise transfer (whether by contract, merger, operation of law, or otherwise) any purchase order or any of the Buyer's obligations under such order or these Terms without the prior written consent of Seller.