

## TERMS AND CONDITIONS OF SALE

The following terms and conditions shall apply to the granting of credit by Seller to the applicant signing the foregoing Credit Application ("Buyer") and to all sales of goods from Seller to Buyer.

1. Seller may, at any time, without notice, cancel all credit available to Buyer and refuse to make any further credit advances. In the event Seller determines that information contained on the Credit Application is false or misleading or if Seller receives other false or misleading credit information from Buyer of any kind or nature, Seller may without further notice cancel any orders in process, or any deliveries in progress to Buyer. Any false or misleading information by Buyer shall be construed as a material default, and any invoices outstanding shall be immediately due and payable in full. The Buyer certifies application for credit is for business purposes, not credit for personal, family or household purposes.

2. All sales are on a cash basis, unless a credit account has been approved by Seller. Payments for goods sold to Buyer will be considered past due if not received within terms stated on Buyer's invoice/statement for such goods. A late payment charge of 1.5% per month, or the highest rate permitted by law, whichever is lower, shall be payable by Buyer on the unpaid balance of any past due invoice.

3. Seller shall not be liable for any damages for any delay in performance due to factors beyond Seller's reasonable control, including, but not limited to, acts of God, accidents, delays in transportation, labor disputes or shortages, or delays by suppliers or other third-party vendors. In addition, Seller shall not be liable for any delay which shall be due to, or within the control of, Buyer, whether by Buyer's action or inaction.

4. **LIMITATION OF WARRANTIES. SELLER DISCLAIMS AND MAKES NO WARRANTIES WITH REGARD TO GOODS SOLD TO BUYER (WHETHER EXPRESS, IMPLIED, OR STATUTORY) INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**

5. **LIMITATION OF LIABILITY. BUYER'S SOLE REMEDIES FOR SELLER'S LIABILITY OF ANY KIND (WHETHER IN CONTRACT, TORT, IN NEGLIGENCE OR OTHERWISE) WITH RESPECT TO ANY GOODS SOLD BY SELLER TO BUYER AND ANY OTHER PERFORMANCE BY SELLER PURSUANT TO SUCH SALE SHALL BE LIMITED TO REPLACEMENT OF DEFECTIVE GOODS OR, IF REPLACEMENT IS NOT POSSIBLE, A REFUND OR CREDIT OF THE PRICE PREVIOUSLY PAID BY BUYER TO SELLER FOR SUCH GOODS. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER FOR ANY LOSS OF PROFITS OR DAMAGES, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THE GOODS SOLD BY SELLER TO BUYER OR THE USE OR PERFORMANCE THEREOF.**

Seller must be given written notice identifying any defective goods and specifying the defect within ten (10) days after receipt of the goods by Buyer. Seller must also be given the opportunity to inspect the allegedly defective goods and if requested by Seller, the allegedly defective goods must be returned to Seller. Failure to give a required notice within the time provided, or failure to return allegedly defective goods to Seller following Seller's request, constitutes a waiver of a claim for credit or replacement. Seller's responsibility to give credit or replacement is limited to the extent that Seller is able to obtain equivalent credit or replacement from the original manufacturer of such goods. No credit for goods returned by Buyer shall be given without Seller's written authorization.

6. Risk of loss, injury or destruction of goods sold to Buyer shall be borne by Buyer from and after the time of delivery to a common carrier or, if delivered by Seller, when available for unloading at Buyer's location.

7. Seller is hereby granted and shall retain a security interest in and to any and all goods and materials sold to Buyer and proceeds thereof including, but not limited to, accounts receivable and notes until all indebtedness to Seller is paid in full and until such time; Seller shall have all rights of a secured party including the right to file financing statements to protect its security interest. Buyer shall pay all costs, attorneys' fees and any other reasonable collection fees incurred by Seller in collecting any amounts owed by Buyer to Seller, or in connection with any obligations under the Credit Application.

8. These Terms and Conditions shall prevail over any inconsistent terms of Buyer's purchase order. No terms and conditions in any way altering or modifying the provisions hereof shall be binding upon Seller unless they are specifically approved in writing by an authorized representative of Seller. No modification or alteration of the provisions hereof shall result by Seller's shipment of goods following receipt of a Buyer's purchase order, shipping order or other forms containing provisions, terms or conditions in addition to, in conflict with, or inconsistent with the provisions hereof. These Terms and Conditions shall be binding upon Buyer, its legal representatives and assigns, and shall inure to Seller's benefit and to the benefit of Seller's successors and assigns.