

Sales Terms and Conditions

The following terms and conditions shall apply to the sale of all goods from Company to Customer.

1. All sales are on a cash basis, unless a credit account has been approved by Company.
2. Company shall not be liable for any damages from any delay in performance due to factors beyond Company'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, Company shall not be liable for any delay which shall be due to, or within the control of, Customer, whether by Customer's action or inaction.
3. **LIMITATION OF WARRANTIES.** COMPANY DISCLAIMS AND MAKES NO WARRANTIES WITH REGARD TO GOODS SOLD TO CUSTOMER (WHETHER EXPRESS, IMPLIED OR STATUTORY) INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. Any and all warranties for any goods sold to Customer shall be those provided by the manufacturer of such good.
4. **LIMITATION OF LIABILITY.** CUSTOMER'S SOLE REMEDY FOR COMPANY'S LIABILITY OF ANY KIND (WHETHER IN CONTRACT, TORT, IN NEGLIGENCE OR OTHERWISE) WITH RESPECT TO ANY GOODS SOLD BY COMPANY TO CUSTOMER (WHETHER MANUFACTURED BY COMPANY OR NOT) AND ANY OTHER PERFORMANCE BY COMPANY 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 CUSTOMER TO COMPANY FOR SUCH GOODS. IN NO EVENT SHALL COMPANY BE LIABLE TO CUSTOMER 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 COMPANY TO CUSTOMER OR THE USE OR PERFORMANCE THEREOF. Company must be given written notice identifying any defective goods and specifying the defect within ten (10) days after the receipt of the goods by Customer (the "Return Period"). Company may inspect the allegedly defective goods and if requested by Company, the allegedly defective goods must be returned to Company. Failure to give a required notice within the time provided, or failure to return allegedly defective goods to Company following Company's request, constitutes a waiver of a claim for credit or replacement. Company's responsibility to give credit or replacement is limited to the extent that Company is able to obtain equivalent credit or replacement from the original manufacturer of such goods. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as Company is willing and able to repair or replace such defective product. The statute of limitations applicable to all claims arising under this agreement shall be the shorter of the Return Period or one year from the date of delivery. Customer shall be responsible for identifying, understanding and adhering to any manufacturer's instructions provided by the manufacturer with the goods purchased. Company shall not be liable for any improper or defective usage or installation of the goods purchased.
5. Goods shall be delivered to Customer on F.O.B. Company's facility terms. Risk of loss, injury or destruction of goods sold by Customer shall be borne by Customer from and after the time of delivery to Customer.
6. Company is hereby granted and shall retain a security interest in and to any and all goods and materials sold to Customer and proceeds thereof including, but not limited to, accounts receivable and notes, until all indebtedness to Company is paid in full and until such time; Company shall have all rights of a secured party including the right to file financing statements to protect its security interest. Customer shall pay all costs, attorneys' fees and any other reasonable collection fees incurred by Company in collecting any amounts owed by Customer to Company. Company does not waive or agree to limit any of its equitable or legal rights. Waivers of lien for payments received by Company will be issued on a mutually agreeable form and will be limited to invoiced amount. Company shall issue a full waiver of lien on a mutually agreeable form after receipt of all monies to which it is entitled.
7. These terms and conditions shall prevail over any inconsistent terms of Customer's purchase order and shall be binding upon Customer, its legal representatives and assigns, and shall inure to Company's benefit and to the benefit of Company's successors and assigns.
8. Shipment and delivery of goods and performance of work shall at all times be subject to the approval of Company's credit department and Company may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or upon terms and conditions or security satisfactory to Company.
9. Customer does not and shall not acquire ownership or any rights in Company's patents, inventions and/or technical data under any order, regardless of when such patents, inventions, and/or technical data may be or have been issued, conceived, generated or produced. All Company patents, information and/or technical data are reserved by Company, and the same shall not be produced or used by Customer for any purpose whatsoever without Company's written permission.
10. The rights and remedies reserved to Company shall be cumulative and additional to all other remedies provided by law or equity. Company shall be entitled to recover costs and attorney fees in the enforcement or defense of any rights under any order. The statute of limitations applicable to all claims arising under this agreement shall be one year from the date of delivery of the goods.
11. Interest on all past-due accounts shall accrue and shall be payable by the Customer to Company at the lesser of the maximum rate of interest allowed by law or otherwise set forth on any invoice issued to Customer by Company.
12. This agreement may only be waived, changed, modified, extended or discharged in a writing signed by both parties and in addition, the parties agree that this paragraph cannot be modified by course of conduct or orally.