

INVOICE TERMS AND CONDITIONS READ CAREFULLY

EACH AND EVERY TERM PRINTED HEREON IS MADE A PART OF AND INCORPORATED INTO THIS INVOICE.

1. All sales and quotations made by Seller are subject to each of the within terms and conditions. These terms and conditions shall replace all terms and conditions of Buyer's order and of any proposal or any quotation to Buyer not agreed to by Buyer and Seller prior to the date of this invoice. In the absence of Buyer's written acceptance, the first to occur: (i) an acceptance of any goods covered by Buyer's order, or (ii) Buyer's failure to object in writing to the terms of this invoice within ten (10) days following its receipt shall constitute Buyer's acceptance of these terms and conditions. No waiver, alteration or modification of these provisions shall be valid unless made in writing and signed by a duly authorized representative of Seller.
2. All unpaid items will be subject to a late payment fee computed at the rate of one and one-half percent (1-1/2%) per month (an effective rate of eighteen percent (18%) per annum) on the declining balance unpaid for more than thirty (30) days after the date of this invoice. Buyer shall pay Seller all costs of collection on past due accounts, including, but not limited to, reasonable attorney's fees, whether or not litigation is commenced in aid thereof.
3. SELLER WARRANTS THAT THE GOODS ARE AS DESCRIBED IN THIS AGREEMENT. EXCEPT FOR A SEPARATE WRITTEN WARRANTY GIVEN BY SELLER WITH RESPECT TO CERTAINTY OF ITS GOODS, SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SELLER AND EXCLUDED FROM THIS WARRANTY. No agent, employee or representative of Seller has any authority to bind Seller to any affirmation, representation or warranty concerning the goods sold under this agreement, and unless affirmation, representation or warranty made by an agent, employee or representative is specifically included with this written agreement, it has not formed a part of the basis of this bargain and shall not in any way be enforceable by Buyer. Seller's liability for breach of this warranty is limited to replacing the defective goods or refunding to Buyer the purchase price for that portion of the goods which are defective, whichever remedy Seller shall so select.
4. All sales and quotations are F.O.B. Seller's O'Fallon, Missouri factory, unless otherwise stipulated. All claims of whatever nature, including but not limited to, claims for shortage, deductions and defective goods must be made in writing to Seller within fifteen (15) days of Buyer's receipt of goods. 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 goods to Seller by Buyer must be authorized by Seller in writing. Seller will not be liable for Buyer's claims of loss, damage, cost of repairs or incidental or consequential damages of any kind whatsoever, whether such claims are based upon warranty, contract or negligence or whether such claims arise in connection with the sale, use or repair of the goods.
5. The amount of sales, excise or other taxes, if any, applicable to the goods covered by this invoice 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.
6. This agreement shall be deemed for all purposes to have been made in Missouri and shall be governed by and construed in accordance with the laws of Missouri. Any cause of action arising from this contract shall be brought only in a Missouri court, which shall have sole jurisdiction over all controversies arising hereunder. Any action for breach of this contract must be commenced within two (2) years after the cause of action has accrued.
7. Seller's delivery of the goods to carrier shall constitute delivery to Buyer. All risk of loss or damage in transit shall be borne by Buyer.
8. Shipping dates are approximate and are not guaranteed. 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.
9. If Buyer fails to fulfill the terms of payment on any order, Seller, in addition to all of its other legal and equitable 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.
10. Unless otherwise specified herein, Seller reserves the right to make deliveries in installments. Delay in delivery of any installment shall not relieve Buyer of (i) its obligation to pay for all installments received prior to such delay and (ii) 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 obligations. 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.
11. Seller's failure strictly to enforce any terms or conditions of this agreement or to exercise any right arising hereunder shall not constitute a waiver of Seller's right strictly to enforce such term or condition or exercise such right thereafter. Each right or remedy granted to Seller hereunder shall be deemed cumulative and may be exercised from time to time. Any waiver of Buyer's default hereunder must be in writing and shall not operate as a waiver of any other default or of the same default thereafter.