

## SALES ORDER TERMS AND CONDITIONS

1. **Governing Terms:** By accepting this instrument Buyer agrees to these terms and conditions of sale and agrees they shall supersede those of Buyer, if any, annually instances where conflict exists. Any additional, consistent or different terms and conditions contained in Buyer's Purchases Order or other documents submitted by Buyer to Seller at any time, whether before or after the date hereof, are hereby expressly rejected by Seller. Buyer acknowledges that, notwithstanding anything to the contrary contained in its Purchase Order or other documents, receipt and acceptance by Buyer of Seller's goods shall constitute acceptance by Buyer of these terms and conditions.

2. **Prices:** All prices quoted by Seller are subject to change at any time and to any addition which may be necessary to cover any tax or charge now existing or hereafter imposed by Federal, State or Municipal Authorities upon equipment, materials or services sold by Seller for the production, sale, distribution or delivery thereof, or upon any feature of this transaction. Seller reserves the right to correct all typographical or clerical errors which may be present in Seller's prices or specifications.

3. **Acceptance of Orders:** An Order shall not be binding on Seller until shipped by Seller. All orders placed by Buyer with Seller are accepted conditional upon Buyer's assent of these terms and conditions. If Buyer does not accept the goods on these terms and conditions, the goods are to be returned at once to Seller as shipped. No agreement or understanding, oral or written, in any way purporting to these terms or conditions, whether contained in Buyer's purchase or shipping release forms, or elsewhere, will be binding upon Seller unless hereafter made in writing and signed by its authorized representative. All proposals, negotiations and representations made prior, and with reference, hereto are merged herein.

4. **Payment and Credit:** Each shipment shall be a separate transaction and payment shall be made accordingly. Unless otherwise specified, payment shall be made on the basis of net cash, thirty days from the date of invoice. No cash discounts are allowed unless otherwise specifically provided by Seller. If, in the exclusive judgment of Seller, the financial condition of Buyer at any time does not justify the commencement or continuance of production or shipment on the terms specified herein, Seller may, in addition to all other remedies it may have at law or in equity, make a written demand for full or partial payment in advance, suspend its performance until such payment is made and cancel the Buyer's order if such payment is not received by Seller within 30 days after delivery in person or mailing of such demand by Seller. If Buyer fails to pay within 10 days after the due date thereof any sum required to be paid by Buyer to Seller hereunder, Buyer will pay to Seller for each delinquent payment or part thereof interest on such delinquent amount from the due date thereof until at the rate of 18% per annum, provided that if applicable law imposes a lesser late charge for contracts of this type involving Buyer, the above late charge will be reduced to the limit allowed by, and be paid in accordance with, such applicable law.

5. **Security Interest:** Seller shall have and Buyer does hereby grant a purchase money security interest in all the goods sold hereunder, together with all proceeds and replacements until all charges have been paid in full. Seller may file or record this or any other applicable document necessary to protect the interests of Seller in the goods. Buyer shall execute and deliver any document reasonably requested by Seller for such purpose.

6. **Shipment:** Shipment is FOB shipping point unless specifically provided by Seller. The shipping date is estimated upon the basis of immediate receipt by Seller of all information required to be furnished by Buyer. Seller shall, in good faith, endeavor to ship the estimated shipping date, but reserves the right to vary such date free of any liability to Buyer, Buyer may explicitly state the method of shipment preferred. In the absence of shipping information, Seller will use its discretion in employing the method of shipment for the goods ordered.

7. **Deliveries:** Seller will not assume any responsibility for any damage resulting from any delays beyond its control.

8. **Returns:** No goods may be returned to Seller without the prior written consent of Seller and are subject to a return charge.

9. **Cancellation by Seller:** Seller may, by written notice to Buyer and without any liability, cancel Buyer's order if Buyer (i) fails to perform any of the terms and conditions hereof and does not cure such failure within a period of 10 days after receipt of written notice from Seller specifying such failure; (ii) in Seller's opinion has not established or maintained credit to meet promptly the payment terms imposed by Seller in Section 4 herein; (iii) becomes insolvent, makes an assignment in favor of creditors, or becomes subject to any bankruptcy, dissolution, or similar proceedings; or (iv) is merged into, or all or a substantial part of its assets are sold to, another company. As a nonexclusive alternative to cancellation, Seller may, by written notice to Buyer and without any liability, suspend any of its obligation hereunder for any reason referenced in subsections (i)-(iv) of this Section 9.

10. **Cancellation by Buyer:** Buyer may, by prior written notice to Seller, cancel orders or defer deliveries only on the conditions that Buyer assumes immediate liability and makes payments to Seller for cancellation charges incurred on the basis of costs to Seller, including handling and overhead charges. All cancellation charges will be determined at the time of cancellation or deferment.

11. **Taxes:** Any sales tax applicable to the sale and any tax, impost, levy, duty or other charge hereafter imposed by any government or other authority upon the production, use or sale of any goods or upon the materials, methods or machines for producing the same and any increase in cost to Seller in manufacturing, processing or delivering any goods resulting directly from government supervision, regulation, or control, now or hereafter prescribed by law or in force, and affecting Seller's performance of its obligations, will be added to the purchase price as herein noted or any revisions thereof, will be paid by Buyer.

12. **Warranties:** SELLER WARRANTS ONLY THAT SUBJECT TO VARIATIONS PERMISSIBLE IN THE INDUSTRY THE GOODS WILL CONFORM TO SPECIFICATIONS PROVIDED BY THE SELLER AND AGREED TO BY THE BUYER. IN THE EVENT THE GOODS FAIL TO CONFORM TO SUCH SPECIFICATIONS, SELLER SHALL REPLACE THE NONCONFORMING GOODS. SELLER MAKES NO OTHER WARRANTIES, REPRESENTATIONS OR COVENANTS, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO WARRANTIES, REPRESENTATIONS OR COVENANTS AS TO THE WORKMANSHIP, QUALITY, CONDITION, OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF GOODS.

13. **Limit of Seller's Liability Buyer's Remedy:** IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, INCLUDING WITHOUT LIMITATION DAMAGES FOR INJURY TO PERSON OR PROPERTY, LOST PROFITS OR REVENUE, LOST SALES OR LOSS OF USE OF ANY PRODUCT. BUYER'S SOLE AND EXCLUSIVE REMEDY AGAINST SELLER SHALL BE THE REPLACEMENT OF NONCONFORMING GOODS AS PROVIDED HEREIN. SELLER'S LIABILITY ON ANY CLAIM, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, OR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH BUYER'S ORDER, SHALL IN NO CASE EXCEED THE PURCHASE PRICE OF THE ORDER. THE SOLE PURPOSE OF THE STIPULATION OF THE EXCLUSIVE REMEDY PROVIDED FOR HEREIN SHALL BE TO PROVIDE BUYER WITH REPLACEMENT OF NONCONFORMING GOODS IN THE MANNER PROVIDED HEREIN. SUCH REMEDY SHALL NOT BE DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE SO LONG AS SELLER IS WILLING AND ABLE TO REPLACE NONCONFORMING GOODS IN THE PRESCRIBED MANNER.

14. **Force Majeure:** Delays by the Seller or by the Buyer in the performance of this contract shall be excused whenever the Seller or the supplying manufacturer is prevented from producing or delivering, or the Buyer from receiving or using the above material, by strikes, differences with workmen, fires, accidents, delays or difficulties in transportation, acts of God or the public enemy, or other causes beyond the reasonable control of the Buyer or of the Seller or of the supplying manufacturer, as well as acts or demands of the government in times of war or national emergency. Any such delayed performance, however, shall not in any way invalidate this contract or any part thereof.

15. **Indemnification:** The Buyer will indemnify the Seller against and hold harmless from any and all claims, actions, proceedings, expenses, damages, liabilities, penalties, liens, costs and expenses, including attorney's fees (including any of the foregoing arising or imposed without Seller's fault or negligence or under the doctrine of strict liability) arising in connection with the goods. Buyer agrees that upon written notice by Seller of the assertion of any of the foregoing against Seller, Buyer will assume full responsibility for the defense thereof. All claims by Buyer against Seller must be made in writing to Seller within 10 days after the receipt of the goods and prior utilization of the goods by Buyer. Failure to give such notice within such time will constitute a waiver by Buyer of all claims with respect to such goods.

16. **Nonnative:** No covenant or condition herein can be waived except by the written consent of Seller. Forbearance, waiver or indulgence by Seller in any regard whatsoever will not constitute a waiver of the covenant or condition to be performed by Buyer to which the same may apply. Waiver by Seller of any breach of these provisions shall not be construed as a waiver of any future breach. Until complete performance by Buyer of said covenant or condition, Seller shall be entitled to invoke any remedy available to Seller as provided herein or by law in equity despite said forbearance or indulgence.

17. **Serviceability:** No provision of these terms and conditions which may be deemed invalid or enforceable against the parties or their successors or assigns, will in any way invalidate or make enforceable any other provisions of these terms and conditions, all of which will remain in full force and effect.

18. **Assignment:** These terms and conditions shall not be assigned, subcontracted or delegated, in whole or in part, without Seller's prior written consent. The provisions of these terms and conditions shall be binding upon and inure to the benefit of the parties and their successors and assigns.

19. **Governing Law:** The terms and conditions shall be governed by and interpreted in accordance with the law of the Province of Ontario.