

## TERMS AND CONDITIONS OF SALE

1. Payment. Unless otherwise stated on the attached invoice, terms of payment are net cash prior to shipment. If credit terms are agreed to in advance by Seller, a service charge of one percent (1%) per month will be assessed on accounts more than thirty (30) days overdue.
2. Taxes. Except as otherwise expressly set forth, prices stated do not include federal, state, local or governmental taxes, all of which shall be paid by Buyer in addition to the purchase price.
3. Delivery. Unless otherwise agreed to by Seller, all shipments of the goods, wares and merchandise described on the invoice (the "Merchandise") shall be F.O.B. point of shipment. Delivery dates stated, if any, are estimates and are not a guaranty of delivery on a particular date. Any Merchandise unavailable at the time of order will be backordered by Seller and will be shipped as soon as possible. Seller shall not be liable to Buyer or any third party for failure or delay in delivering Merchandise, if such failure or delay results from: (a) strikes, lockouts or other disputes or unrest; (b) fire, explosion, flood, natural disaster or act of God; (c) war, civil disturbance, riots or armed conflict; (d) governmental action, order, condemnation, sequestration, confiscation or other act directly or indirectly affecting Seller's performance hereunder; (e) Seller's inability to obtain Merchandise; or (f) any other cause beyond Seller's control.
4. Used Equipment. IT IS UNDERSTOOD THAT THE PURCHASE OF ANY USED EQUIPMENT IS "AS IS" AND "WITH ALL FAULTS."
5. Warranties. UNLESS OTHERWISE STATED ON THE SALES ORDER. SELLER DISCLAIMS ALL WARRANTIES IN CONNECTION WITH THE SALE OF MERCHANDISE TO BUYER, BOTH EXPRESS AND IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AS THOSE TERMS ARE DEFINED IN THE UNIFORM COMMERCIAL CODE OF WISCONSIN. SELLER HEREBY ASSIGNS THOSE WARRANTIES EXPRESSLY PROVIDED BY THE MANUFACTURERS OF NEW MERCHANDISE, IF ANY, TO BUYER. SELLER MAKES NO OTHER WARRANTIES WITH RESPECT TO NEW MERCHANDISE.
6. Damages. SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER.
7. Responsibility of Buyer. It is Buyer's responsibility to provide proper safety devices and equipment, or such other means, as may be necessary to safeguard operators of the Merchandise from harm, and to ensure that proper and safe operating procedures are followed by the operations thereof.
8. Indemnity. Buyer agrees to keep, save, protect, defend, indemnify and hold Seller harmless from and against all suits, claims, costs and expenses for personal injury, death or property damage arising from the purchase, ownership or use by Buyer or Buyer's agents, employees or independent contractors of the Merchandise, it being expressly understood that any claim arising from alleged manufacturing or design defects in new or used Merchandise shall be asserted only against its manufacturer. Provided that the Buyer shall actually indemnify Seller in accordance with the foregoing, Seller shall assign to Buyer any rights of indemnity or contribution which Seller may have against persons or entities other than Buyer in connection with any claim for personal injury, death or property damage arising from the purchase, ownership or use of the Merchandise.
9. Return of Merchandise. No returns of merchandise by Buyer to Seller will be accepted without prior written permission of Seller. Buyer agrees to pay Seller a reasonable restocking charge on returned Merchandise at a rate determined by Seller.
10. Inspection. Buyer shall, upon reasonable notice to Seller, have the right to inspect the Merchandise at point of shipment.
11. Remedies. Buyer's sole remedy, in lieu of all other remedies, shall be limited to the refund of any purchase price for Merchandise paid to Seller hereunder. Buyer's failure to notify Seller of any claim within thirty (30) days after delivery of the Merchandise (or the date fixed for delivery in the case of nondelivery) shall constitute a waiver and release by Buyer of all claims arising against Seller in connection with the Merchandise. No action by Buyer for breach of any of the terms and provisions of this agreement shall be commenced subsequent to two (2) years after the cause of action accrued.
12. Default. If Buyer shall default in the performance of any of its obligations hereunder, then in addition to any and all rights or remedies which Seller may have against Buyer, Buyer shall be liable to Seller for all court costs and attorney's fees incurred in enforcing the terms and provisions of this agreement.
13. Entire Agreement. The terms and conditions contained herein, together with Seller's invoice, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede all previous communications or representations, including Buyer's Purchase Order, if any, whether verbal or written, between the parties with respect to the subject matter hereof. No agent, employee or representative of the Seller has any authority to bind the Seller to any affirmation, representation or warranty concerning the Merchandise subject hereto, and unless such affirmation, representation or warranty is included in this agreement, it is not part of the basis of this bargain and shall not be binding upon or enforceable against the Seller. No course or prior dealings between the parties and no custom or usage of trade in the industry shall be used to interpret, construe or supplement the terms and conditions hereof.
14. Modifications. The agreement of which these terms are a part can be modified or rescinded only by a writing signed by both parties or their duly authorized agents.
15. Construction. The terms and conditions of this agreement shall be governed and construed in accordance with the laws of the state of Wisconsin.