



## **TERMS AND CONDITIONS OF SALE**

1. This sale is expressly made subject and limited to all terms and conditions set forth below. Acceptance of the goods described herein shall be deemed acceptance of these terms.
2. Written acceptance or confirmation by Buyer which states any terms which are additional to or different from those set forth in any offer made by Seller shall be operative as acceptances, provided, however, that all such additional or different terms shall be deemed material alterations to the contract for the sale of the goods described herein within the meaning of Section 2207 (2)(b) of the California Commercial Code, and notice of Seller's objection to such additional or different terms pursuant to Section 2207 (2)(c) of the California Commercial Code is hereby given.
3. It is agreed that payment of the purchase price shall be made at the time of, or prior to, delivery of the goods. Such payment shall be made in cash, or by check or credit approved by Seller. Buyer is liable for payment of any and all sales, use, occupation, excise, or similar taxes arising from the sale or shipment of the goods hereunder. If the payment of the purchase price is deferred for any reason beyond the delivery date, a finance charge of the maximum interest rate allowed by law will be applied to all accounts commencing 30 days after the delivery date.
4. Unless otherwise agreed in writing, at its sole and exclusive option, Seller may permit Buyer to return the goods for credit, and if so, may impose a minimum handling charge of fifteen (15%) of the purchase price.
5. Seller warrants that the goods are of such adequate materials and workmanship to satisfactorily perform all functions defined and limited by Seller's product specifications for a period of 90 days from the date the goods are placed in service, or 12 months from date of shipment by Seller, whichever is earlier. Goods built substantially or in part to Buyer's design or specifications are warranted to be free from defects in materials and workmanship, but Seller is not liable for the functional satisfaction of such goods or for any claims of patent and/or copyright infringement. Buyer shall indemnify and hold Seller harmless from any claims, actions, liabilities, demands, or judgement arising from the design or specifications of such goods. IT IS EXPRESSLY AGREED THAT THE FOREGOING LIMITED WARRANTY IS IN LIEU OF ALL WARRANTIES OF FITNESS AND IN LIEU OF ALL WARRANTIES OF MERCHANTABILITY.
6. Any goods claimed to be defective are subject to inspection by Seller at Seller's factory. Buyer's sole remedy with respect to defective goods shall be replacement or repair of the part or product determined to be defective by Seller's factory inspection. Buyer expressly waives any right to recover consequential or incidental damages, or damages for personal injury, property damage, or death, resulting directly or indirectly to Buyer or any other person from the possession, ownership, or use of the goods sold.
7. It is agreed that in no event shall Seller be held responsible or liable for any loss, damage, detention, or delay caused by fire, strike, civil or military authority, insurrection or riot, or explosion or other occurrences which are usually termed "acts of God," or for delays caused by events of circumstances which are beyond Seller's reasonable control.
8. Buyer shall not assign its rights under any contract of sale for the goods described herein without the prior written consent of Seller.
9. Any contract for sale of the goods hereunder shall be governed by California law. The prevailing party shall be entitled to reasonable attorney's fees in any litigation growing out of or related to this Agreement.

### **DISCLAIMER**

PLEASE NOTE: TO THE EXTENT THAT A PURCHASE ORDER OR ANOTHER DOCUMENT REFLECTING THIS SALE CONTAINS LANGUAGE PURPORTING TO REQUIRE SELLER TO INDEMNIFY AND/OR HOLD BUYER HARMLESS IN CONNECTION WITH ANY LOSS WHICH MIGHT ULTIMATELY ARISE AS A RESULT OF THIS SALE, THOSE PROVISIONS ARE HEREBY DISCLAIMED.