

Terms of Purchase

1. **Terms of Order.** Buyer agrees to buy and Seller agrees to sell the products described or referenced at the price and under the terms indicated on Buyer's purchase order (including an email purchase order), together with these terms, which are the complete and exclusive statement of the terms of sale for the products ordered ("Terms of Sale"). Buyer rejects any terms which are additional or different than those contained or referenced in Buyer's order or confirmation.
2. **Delivery.** Buyer may return or reject unordered, late shipped, nonconforming or excess products with transportation costs both ways at the expense of the Seller. Buyer will have no liability or risk of loss for the care, return or payment of any such products.
3. **Warranties.** Seller warrants that the products ordered (i) conform to their stated description, to Buyer's specifications, and to any samples furnished to and approved by Buyer or otherwise successfully tested, (ii) comply with all applicable laws, regulations, administrative or judicial orders, and industry standards, (iii) do not contain, to Seller's knowledge, any chemicals that are, at the time the products are delivered, included on the list of chemicals known to the State of California to cause cancer or reproductive toxicity, as maintained pursuant to California's Safe Drinking Water and Toxic Enforcement Act of 1986, (iv) are properly packaged, labeled, shipped, insured and where applicable, refrigerated, and (v) are, and will arrive at Buyer's premises in a condition which is, merchantable, fit, fresh, wholesome, free of mold or spoilage and safe for the purpose or purposes intended, and of good quality and salable quality. You must tell us immediately if you learn of any potential quality, safety, or labeling problem with the products sold to Buyer or any potential violation of these warranties. These warranties shall survive all inspections, tests, approvals of samples, acceptance, and payment. Any warranties, express or implied, shall run to Buyer and all persons who purchase from Buyer, or use, consume or are affected by the products alone or in combination with other property.
4. **Remedies and Indemnity.** If Seller breaches any warranty or agreement with respect to products sold to Buyer under the attached or referenced orders or any installment or shipment thereunder, or breaches any other contract or agreement with Buyer, Buyer may, at its election, cancel the contract or future installments thereunder, return some or all of the product, receive return of any monies paid, take a credit in the amount of damages Buyer determines it has incurred and will incur, seek cover at Seller's expense and otherwise hold Seller responsible for Buyer's direct, incidental and consequential damages caused by the breach, in addition to other remedies available to it under law. Seller agrees to indemnify and hold harmless Buyer from all losses, damages, fines, penalties, costs, expenses, and attorneys' fees arising from third party claims resulting from any actual or alleged breach by Seller of these Terms of Sale or actual or alleged defects in the products sold by Seller to Buyer. Seller further agrees to cooperate fully with Buyer in any investigation prompted by any third party claim or threat of claim.
5. **Law and Forum.** This purchase order and all sales and terms in connection with it shall be governed by the laws of the State of Illinois. The Convention on the International Sale of Goods shall not apply. Any controversy or claim arising out of or related to this contract may be brought exclusively in the courts of the State of Illinois, except to the extent that Seller seeks to implead Buyer into a third party claim described in Section 4. The prevailing party shall be entitled to its reasonable attorneys' fees.

6. Force Majeure. Seller shall give Buyer notice with full details, promptly and in no event later than 2 business days after becoming aware of any Force Majeure Event that delays or prevents Seller's performance. Buyer may, by written notice to Seller, cancel, reduce quantities ordered, or extend the delivery date for products or services ordered affected by a Force Majeure Event. In the event of a shortage caused by a Force Majeure Event, Seller shall allocate its production and available inventory and resources to Buyer on a no less favorable basis than any other customer of Seller, and ahead of any orders placed after Buyer's order. "Force Majeure Events" are those events which are beyond the control of Seller or Buyer which affect performance of the Order, including fire, Acts of God, interventions of governmental authorities, act of terrorism, vandals, or law breakers, explosions or accidents or other similar events.

7. No Waiver. A waiver by Purchaser of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clauses. The failure of the Buyer to insist upon the performance of any term or condition of the Order, or to exercise any right hereunder shall not be construed as a waiver of the future performance of any such term or condition or the exercise in the future of any such right.

8. General. The invalidity of any term contained in the Order shall not affect any other of its terms. The terms and conditions of the order including these terms and conditions, are intended by the parties as a final expression and a complete and exclusive statement of the agreement of the parties which may not be modified except by a signed writing.

9. Insurance. Seller warrants that it maintains or causes to maintain general liability insurance coverage at minimum of \$2,000,000 per occurrence and \$5,000,000 in aggregate as shall be necessary to insure Seller against any and all claims for damages resulting from any actual or alleged defects in the products sold by Seller to Buyer.

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