

# TERMS AND CONDITIONS OF SALE

1. **TERMS OF PAYMENT:** Buyer agrees to pay the purchase price shown on the acknowledged Sales Order in accordance with the terms of payment stated on the Sales Order. Amounts not paid when due shall accrue interest at the rate of 1.5% per month from the due date. For all sales on open account, the full purchase price shall be due 30 days from the date of the Invoice. However, Seller reserves the right to require down payment and/or progress payments, which shall be specified on the Sales Order. Unless otherwise specified, all sales are exclusive of freight, taxes, and other amounts due third parties. Discounts for early payment shall be as stated on the Invoice. Discounts shall not apply to the amount of any freight, taxes of other sums due any third party. Terms begin on the date of the Invoice. Seller shall establish the credit terms available to Buyer based on a current credit application and any other information available to Seller. At any time, Seller may limit or cancel the amount or time of credit extended to Buyer, in the sole opinion of Seller. Buyer shall pay in cash before delivery (C.O.D) for any order or part of an order in excess of the approved credit terms of Buyer. In the event Buyer fails to pay in advance any amount demanded by Seller, Seller shall have the right, in addition to any other remedies available, to cancel the contract or sell all or any part of the undelivered goods without notice at public or private sale, holding Buyer responsible for any deficiency.
2. **SECURITY INTEREST:** Seller reserves and Buyer hereby grants to Seller a security interest in the goods shipped under this agreement and the proceeds derived from their sale of whatever nature, whether in cash, note or account. This security interest shall continue until the full purchase price and any related expenses and/or charges due in connection with the Sales Order are paid in full. Notes shall not be considered as payment but merely as evidence of indebtedness. Seller shall be entitled to all the rights of a secured party under Iowa law. Buyer agrees to execute any documents required to perfect or confirm this security interest.
3. **TITLE/RISK OF LOSS:** Title to all goods priced at shipping point shall pass to Buyer upon delivery at such shipping point. All risk of loss shall be Buyer's from the time of shipment. Seller's responsibility for any loss or damage to the goods ceases at the time delivery is made to the carrier. Buyer shall be solely responsible for making any claim(s) against the carrier for any loss or damage.
4. **EXPORT ORDERS:** Prices for export-crating charges can be obtained by contacting the Sales Department for quotations and orders.
5. **PRICE CHANGES:** The prices listed may be changed by Seller without notice in order to reflect Seller's prices at time of shipment and any increase in transportation, labor or other costs. If a delivered price has been quoted, any charges at destination for spotting, switching, handling, storage, and other accessorial services and demurrage shall be borne by Buyer. Seller reserves the right to correct any obvious errors or mistakes in specifications or prices.
6. **WHEN ORDERING:** Please specify name of item, catalog part number, as well as other information when this is applicable to insure prompt handling of the order.
7. **MINIMUM BILLING:** \$50.00 Net, exclusive of transportation charges.
8. **DELIVERIES:** Any delivery schedule indicated is based on Seller's present estimate of the time required to ship after receipt of Buyer's order. In the event of any delay in Seller's performance due in whole or in part to any cause beyond Seller's reasonable control, Seller shall have such additional time for its performance as may be reasonably necessary under the circumstance.
9. **MANUALS:** Seller will furnish one combined safety, installation, operation, maintenance, and parts manual. Extra manuals will be sent on request.
10. **SHIPMENT:** Shipment may be by carrier or other means selected by Seller. All units are shipped-knocked down. If shipment is delayed by Buyer, date of readiness for shipment shall be deemed to be date of shipment for payment purposes. If manufacture is delayed by Buyer, a payment shall be made based on purchase price and percentage of completion, balance payable in accordance with the terms as stated. Equipment held for Buyer shall be at the risk and expense of Buyer.
11. **LIMITED WARRANTY:** Seller warrants that the components and parts that it manufactures for its machines and equipment will be free from defects in material or workmanship for a period of one (1) year from the date of shipment by Seller. Seller does not warrant any component or part not manufactured by Seller. If, during the one year warranty period, Buyer discovers a defect in material or workmanship of a covered component, Buyer shall promptly (and in no event later than thirteen (13) months after the date of shipment by Seller) notify Seller in writing of such defect. Within a reasonable time of receiving such notification, Seller will furnish a replacement component or part. Buyer shall be responsible for all expenses attendant to the shipment and installation of the replacement component or part. Buyer also shall be responsible for returning the defective component or part to Seller if request by Seller to do so. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, SELLER DISCLAIMS THE IMPLIED WARRANTY OR MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.**  
**SELLER SPECIFICALLY DOES NOT WARRANT PARTS AND COMPONENTS PURCHASED BY SELLER FROM THIRD PARTY SUPPLIERS, INCLUDING, BUT NOT LIMITED TO, SUCH PARTS AND COMPONENTS AS MOTORS, BEARINGS, REDUCERS, AND SWITCHES. BUYER SHALL BE LIMITED IN RECOURSE FOR SUCH COMPONENTS AND PARTS TO THE TERMS OF THE WARRANTY OF THAT PARTICULAR MANUFACTURER.**
12. **LIMITATION OF REMEDIES AND DAMAGES:** Buyer's primary remedy for breach of warranty is the provision of a replacement component or part, as stated above. If Seller is unable to provide a replacement component or part, Buyer's alternate remedy shall be refund of Buyer's purchase price. These remedies are Buyer's sole and exclusive remedies for breach of warranty. In no event shall Seller be liable under any theory of liability for (i) damages in excess of Buyer's purchase price or (ii) any special, incidental or consequential damages.
13. **TIME TO BRING SUIT:** Buyer shall bring any action relating to the goods sold by Seller pursuant to his Sales Order or Invoice, including any action for breach of contract or breach of warranty, not later than two (2) years after the date of shipment by Seller. Buyer agrees that any action brought after such date shall be barred as being untimely.
14. **PLACE OF BRINGING SUIT:** Any action relating to the goods sold by Seller pursuant to this Sales Order or Invoice shall be brought in the Iowa District Court in and for Black Hawk County, Iowa.
15. **TOLERANCES AND VARIATIONS:** All goods shall be subject to tolerances and variations consistent with usual trade practices regarding dimension, straightness, section, composition and mechanical properties and normal variations in surface and internal conditions and quality and shall also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods.
16. **RETURNS:** Returns are not accepted unless Seller is first notified of the reason for the return, and has granted permission for the return to be made. A return authorization tag will be issued on agreed-to returns. Credit for permitted returns will not exceed the price charged when shipment was made, or the market price at the time the return was received. 20% handling charge will be made on all returned goods. In case of damaged goods, the charge will rise accordingly. When the cause for return is due to incorrect shipment by Seller, there will be no restocking or freight charge. Any merchandise that is to be returned must be received with a return authorization tag attached and freight charges-Prepaid. Any returns authorized by Seller are conditioned upon the goods being returned in condition for resale.
17. **COPYRIGHT:** No reproduction either in whole or in part may be made from Seller's catalog, drawings, sketched, etc., without written permission from Seller's Sales Department.
18. **BACK ORDERS:** Seller will attempt to ship all orders complete; however, in the event of back orders, the orders will be shipped with freight charges, collect or prepaid, at Seller's option only.
19. **SHORTAGES:** Claims for shipping shortages concealed or otherwise, will not be allowed by Seller, unless reported within 15 days after date of shipment by Seller.
20. **PRODUCT CHANGES:** Seller reserves the right to change, without notice, the design or any modular, "standardized" components represented in Seller's catalog.
21. **TOOLS, DIES AND FIXTURES:** Unless otherwise expressly provided herein, any tools, dies, or fixtures which may be developed for Seller in the production of the goods covered hereby shall be owned by Seller, as Seller may elect, even though Buyer is charged in whole or in part for the cost of such tools, dies and fixtures.
22. **PATENT INFRINGEMENT:** If any of the goods are to be furnished to Buyer's specification, Buyer agrees to indemnify Seller and Seller's successors and assigns, against all liabilities and expenses resulting from any claim of infringement of any patent in connection with the production of such goods.
23. **SPECIAL DRAWING OR DATE REQUIREMENTS:** Seller will provide, upon request, an 8 1/2 x 11 copy of any line drawing shown in the catalog without charge. Seller reserves the right to reject any request and/or assess a charge for any other drawing.
24. **CANCELLATION:** Except as otherwise provided in Paragraph 1, order may be cancelled or modified only by written agreement between the parties. On specially ordered or fabricated equipment, no cancellation will be allowed. Buyer's insistence upon canceling or suspending fabrication or shipment, or Buyer's failure to furnish specifications when required, may be treated by Seller as a breach of contract by Buyer, and Seller may cancel any unshipped balance without prejudice to any other remedies Seller may have.
25. **TAXES:** All applicable federal, state or local sales, use, occupational or excise taxes are the responsibility of the Buyer and shall be in addition to the price or prices stated unless otherwise specifically stated. Seller shall have the right to Invoice separately any such tax as may be imposed at a later time. Applicable tax exemption certificates must accompany any order to which the same applies.
26. **MODIFICATIONS OF ALTERATIONS TO EQUIPMENT:** Seller shall not be liable for any product that is modified or altered by Buyer or its assignee or successor regardless of whether Seller knows or is aware of such modification or alteration.
27. **EQUIPMENT OPERATION:** Buyer agrees to require its employees to read and be familiar with the safety instructions and the operation and maintenance portion of the manual before operating this equipment. Buyer agrees to require its employees to use all safety devices and guards on the equipment and to use safe operating procedures. Buyer agrees to not remove or modify any such equipment, switch, device, guard or warning sign. If Buyer, or its employees, fail to strictly observe all of these obligations, Buyer agrees to indemnify and save Seller harmless from any liability or obligation incurred by Seller to persons injured directly or indirectly by the operation of the equipment.
28. **RESALE, TRANSFER, OR LEASE OF EQUIPMENT TO OTHERS:** Buyer agrees to the continuing obligation to notify Seller of the resale, transfer or lease of the equipment to third parties, stating the name and address of the new owner or transferee and the location of the equipment.
29. **REPORTING PERSONAL INJURIES OR PROPERTY DAMAGE:** The Buyer or user agrees to notify Seller within 30 days of any accident or occurrence involving Seller's machinery or equipment resulting in personal injury or property damage, and shall cooperate fully with Seller in investigating and determining the cause of such accident or occurrence. In the event that the Buyer or user fails to give such notice to Seller and so cooperate, the Buyer or user agrees to indemnify and save Seller harmless from all loss or damage arising from such accident or occurrence.
30. **ASSIGNABILITY:** Any contract for sale and purchase of machinery and equipment cannot be assigned except with the written consent of Seller.
31. **SUCCESSOR OWNERS AND USERS:** The terms and conditions hereof are binding on successor owners and users, who take by purchase, assignment, lease, or otherwise, the right to own, use or operate the equipment sold to the original Buyer, and said terms and conditions shall transfer with the equipment itself as an integral obligation of any successor to the original Buyer. The successor owner and user obligations and liabilities stated herein shall also apply if the original Buyer was a dealer and purchased the equipment from Seller for purposes of resale and transfer to third parties.
32. **ENTIRE AGREEMENT:** These Terms and Conditions of Sale constitute the entire agreement between the parties concerning any machinery or equipment sold and purchased. It shall not be modified or canceled except by mutual agreement in writing signed by all parties.
33. **APPLICABLE LAW:** The laws of the state of Iowa shall govern and control the rights, duties, remedies, and obligations of Seller, Buyer, successors, user, and owner and Iowa law shall be used to interpret and construe all of the terms and conditions hereof.