

Terms and Conditions of Sale

1. **Price, Payment and Title:** Prices quoted are inclusive of all packaging and standard transportation to point of delivery. Expedited shipping may be available at additional cost. Unless otherwise stated on the reverse side, payment is due thirty (30) days following invoice date and terms are F.O.B. CLARK International ("CLARK"). Any balance outstanding beyond payment terms shall accrue a late payment charge of 1.5% per month. In the event it becomes necessary for either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs. Title to the goods shall pass to Customer upon payment in full.
2. **Terms and Conditions:** No terms and conditions other than those set forth in this Agreement ("Agreement"), including any within any attached or incorporated document shall be binding upon CLARK unless agreed to in writing by CLARK. Customer acknowledges that the sale of goods by CLARK to Customer is governed by this Agreement. Customer's written confirmation of orders placed with CLARK when received by facsimile or email by CLARK shall be considered an original.
3. **Expiration:** If CLARK is providing a quotation for a future order then pricing is valid for seven (7) calendar days from the date of quotation. Orders received from Customer thereafter may be re-quoted by CLARK.
4. **Changes:** Customer may at any time, by notice, propose changes to the quantity, methods of shipment and packaging, or place of delivery. Said proposals will not become part of this Agreement until CLARK has provided Customer written notice of acceptance. Any change causing additional cost to CLARK will be Customer's responsibility.
5. **Cure:** Customer agrees to inspect goods within seven (7) calendar days of receipt. If Customer reasonably determines that the goods are non-conforming Customer shall give CLARK a reasonable opportunity to cure such non-conformity by replacing or repairing the goods at its expense.
6. **Force Majeure:** Each party acknowledges CLARK's performance may be suspended or terminated upon notice to Customer if timely performance is interrupted or prevented by: delays or interruptions in transportation; labor disputes, strikes or lockouts; embargoes; acts of God; inability to obtain labor or specified materials or reasonable substitutes for them; governmental restrictions, regulations, controls, or customs; terrorism; judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes, except financial, beyond CLARK's reasonable control.
7. **NO EXPRESS OR IMPLIED WARRANTIES, LIMITATION OF DAMAGES: CLARK DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL CLARK BE LIABLE TO CUSTOMER OR ANY THIRD PARTY, IN CONTRACT, TORT OR OTHERWISE, FOR ANY LOSS OF PROFITS OR BUSINESS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, ARISING FROM OR AS A RESULT OF THESE CONTRACT TERMS, ANY ORDER OR ANY AGREEMENT BETWEEN THE PARTIES RELATING TO THE PRODUCTS, SERVICES OR DELIVERABLES CUSTOMER PROVIDES, EVEN IF CLARK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S DAMAGES, IF ANY, ARE LIMITED TO CLARK'S REFUND TO CUSTOMER OF THE PURCHASE PRICE OF THE GOODS.**
8. **Choice of Law:** The parties agree that the law of the State of California shall govern and apply to the interpretation and application of the terms and conditions of all sales made pursuant to this Agreement. Customer hereby consents to the jurisdiction of any local, state, or federal court located within the State of California and waives any objection which Customer may have based on improper venue or inconvenient forum.
9. **By Customer's placement of its order with CLARK as well as by any original and or electronic transmission of its confirmation of its order, Customer is agreeing to these terms and conditions.**