

PFISTERER GROUP TERMS AND CONDITIONS OF SALE

North America

Rev. Date: January 1/2017

PFISTERER

1. AGREEMENT. The contract of sale or a purchase order resulting from documentation on the reverse side or attached hereto together with these terms and conditions ("Contract") constitutes the entire agreement between the parties hereto, except as modified in writing signed by both the Seller and Purchaser. The "Seller" is the applicable Pfisterer Group Company with which the purchase order was placed and the "Purchaser" is identified in the Contract. Any terms in a purchase order, irrespective of their materiality, which are either different from or additional to these Pfisterer Group Terms and Conditions, are objected to and are excluded unless the Seller expressly agrees in writing to such terms. Execution of such forms by Seller to accommodate Purchaser's procedures or to evidence agreed upon change orders shall not be construed as assent to Purchaser's terms. Acceptance of the goods shipped shall constitute assent to Seller's conditions of sale. The Seller's failure to object to the Purchaser's additional or conflicting terms does not operate as a waiver of any terms contained in this Contract. This Contract shall be binding upon Purchaser and Seller, and on their permitted successors and assigns.

2. ACCEPTANCE AND APPROVAL OF ORDER. A proposal or quotation from Seller shall not be considered as an offer, but the basis for an order from Purchaser which is subject to acceptance by Seller. An order will become binding on Seller only when accepted and approved by the Sales and Credit Departments of the Seller. The minimum order is \$500.00. Partial orders are subject to price reviews. Orders must be in even standard packages. The Seller will automatically increase the order quantity to the next largest standard package size.

3. CREDIT. Credit terms of payment must have the approval of Seller's Credit Department and must be specified in writing on Seller's invoice or in the Contract. If Purchaser's credit is found by Seller to be unsatisfactory, Seller may rescind or terminate this Contract. If at any time during the term of the Contract Purchaser's financial responsibility becomes impaired or unsatisfactory to Seller, Seller reserves the right to stop shipment on notification to Purchaser, project owner and surety, with a demand for payment in advance or at time of delivery for future deliveries, or to require other security satisfactory to Seller and in the absence thereof, to terminate the unfilled portion of the Contract. Seller will notify Purchaser promptly of its decision to stop shipments and give an advance notice to the extent this is possible. In the absence of credit terms, sales are for cash.

4. PAYMENT. Default unless otherwise stated is Net 30 days in U.S. funds. Specific terms of payment for this order shall be set forth on the reverse side of this Contract or identified and appended hereto. Purchaser agrees to make payment at Seller's location specified in this Contract in lawful money of the United States. Purchaser further agrees to make all payments when due to Seller in accordance with the agreed terms of payment in this Contract without reference to Purchaser's agreement with or payments by the owner and with no right of retention or set-off.

5. LATE PAYMENT, INTEREST & COSTS. Purchaser agrees to pay interest at 1 1/4% per month or the highest rate allowed by law - whichever is lower - on all delinquent balances if and when assessed by Seller, and any attorney's fees or court costs arising out of and made necessary in collection of Purchaser's obligation to Seller created by this Contract.

6. TAXES. Any federal, state or local tax, assessment, fee, duty or charge hereafter imposed on or measured by the products purchased hereunder shall be for Purchaser's account unless Purchaser furnishes Seller an acceptable exemption certificate from such tax, fee, duty or charge prior to shipment.

7. DISPUTED INVOICE. If Purchaser disputes all or any portion of an invoice, it must first deliver written notice to the Seller of the disputed amount and the basis for the dispute within twenty-one (21) days of receiving the invoice. Failure of Purchaser to timely notify the Seller of any dispute constitutes a waiver of Purchaser's claim. If Purchaser only disputes a portion of the invoice, Purchaser must pay the undisputed portion in accordance with Article 4 (Payment). Upon resolution of the dispute, Purchaser must pay the invoice or the remainder of the invoice, plus any accrued interest on the late payment.

8. SUSPENSION/TERMINATION RIGHT. Seller may suspend work and/or deliveries without liability to Purchaser under any outstanding purchase order if an undisputed invoice is more than ten (10) days past due. Seller may terminate this Contract and all other outstanding purchase orders from Purchaser in its sole discretion if an undisputed invoice is more than thirty (30) days past due. Unless prohibited by law, Seller may also terminate this Contract immediately and without liability in the event of a material adverse change in Purchaser's financial condition including, but not limited to, bankruptcy, insolvency, liquidation or similar financial condition.

9. FORCE MAJEURE. Seller shall not be liable for delays or defaults in delivery due to causes beyond Seller's reasonable control (regardless of whether the cause was foreseeable), including but not limited to: floods, fires, storms, other acts of God, by war or act of public enemy (or civil disturbance), cyber-attacks, terrorist attacks, strikes, lockouts, shortages or disturbance of labor, shortage of raw materials or supplies (including fuel) or production facilities, other failure of normal sources of supply, transportation, delays of carriers, service or equipment shortages or failures, (in)action of any governmental authority or other conditions beyond Seller's reasonable control. Seller will notify Purchaser within a reasonable time after becoming aware of any such delay.

10. PURCHASER'S REQUIREMENTS. Seller's performance is contingent upon Purchaser timely fulfilling all of its obligations under this Contract. These obligations include the Purchaser supplying all documents and approvals needed for Seller to perform, including but not limited to technical information and data, drawing and document approvals, and necessary commercial documentation. Seller may request a change order for an equitable adjustment in prices and times for performance, as well as for any additional costs or any delay resulting from the failure of Purchaser or Purchaser's contractors, successors or assigns to meet these obligations.

11. CANCELLATION. Order cancellations and/or deferrals will be subject to a minimum 25% charge. If Purchaser desires to cancel or change any portion of this Contract, it must make such request in writing to Seller. Seller may, in its sole discretion, accept or reject any such request. If accepted, the Purchaser nonetheless must take delivery and make payment to Seller for all material manufactured and in stock or in process of manufacture at time of notice, and all special materials ordered at time of notice and for which Seller must take delivery, unless otherwise agreed by Seller in writing. All such materials must be removed from Seller's premises within 30 days after payment and payment will be due at time of notice.

12. INSPECTION AND TESTING. Seller's standard specifications and tests apply to all orders. All charges for inspections or tests not regularly furnished are for Purchaser's account and subject to prior negotiation. All inspections shall be conducted at Seller's plant, and failure of Purchaser to avail himself of inspection privileges shall be deemed a waiver of such privileges.

13. PRICES. Prices are subject to change without notice. Orders based on published prices and accepted for scheduled shipment will be invoiced at Seller's applicable price in effect on the scheduled date of shipment, unless otherwise specifically noted on the Seller's order acknowledgement. All prices will be in accordance with applicable government regulations. Prices are net prices to Seller and do not include any special packaging or handling (including palletizing), taxes, levies, duties, tariffs, customs or other fees or charges of any nature imposed by any governmental authority, all of which (including any related withholding) will be the sole responsibility of Purchaser.

14. DELIVERY DATES, DELAYS. Seller shall make delivery in accordance with the terms of this Contract or within a reasonable time in the absence of any specific commitment; provided, however, that any shipping, delivery and installation dates as well as quantities are estimated only. Seller shall not be liable for damages for failure to make partial or complete shipment or for any delay in making shipments. Purchaser shall be liable for any added expenses incurred by Seller because of Purchaser's delay in furnishing requested information to Seller, delay resulting from order changes by Purchaser, or delay in unloading shipments at delivery point. Seller is not liable for any loss or expense incurred by Purchaser or Purchaser's customers if Seller fails to meet its delivery schedule. Seller may make partial shipments. Unless a notice of rejection is delivered by Purchaser to Seller within two (2) business days from receipt of goods by Purchaser, Purchaser is deemed to have accepted such goods.

15. DELIVERY, TITLE. Unless different delivery terms have been specified by Purchaser and Seller in writing, products will be delivered EXW applicable Seller's plant (Incoterms 2010). Title to products transfers to Purchaser upon delivery to carrier at the EXW delivery point which will be clearly set forth in the shipment terms of this Contract. On receipt of title, Purchaser is then responsible for proper protection of product, placement, compliance with all regulations and ordinances, and will indemnify Seller against all claims including reasonable attorney's fees for personal injuries or property damage arising from the storage, use or handling of such products.

16. SHIPMENT. Unless different delivery terms have been specified by Purchaser and Seller in writing, Purchaser will select the carrier for the products and all associated shipping and freight charges, including without limitation, carrier's charges for notification prior to delivery, demurrage, delay in unloading, diversion or re-consignment, will be solely for the account of Purchaser.

17. IN TRANSIT CLAIMS. Claims for damage or shortage in transit must be made by Purchaser against the carrier in accordance with the EXW Seller Location (Incoterms 2010) delivery terms, unless different delivery terms have been specifically agreed by the parties. Purchaser has the responsibility to inspect shipments before or during

unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support a claim.

18. CLAIMS. Notice of claims against a Seller hereunder for any reason, must be made to Seller in writing promptly after discovery and within any applicable warranty period. Failure to give such notice to Seller shall constitute a waiver by Purchaser of any right later to assert such a claim. Products must be inspected by Purchaser upon receipt and notice of defects or damage must be given to Seller within 24 hours of receipt of product.

19. RETURNS. All requests by Purchaser to return goods must first be approved, in writing, by the appropriate Seller representative. After written approval, returned goods may be accepted for credit in Seller's reasonable discretion, and only if in saleable condition and accompanied by evidence of Seller's prior written consent and proof of purchase within one year of request date. Product must be in original unopened packaging and be in standard pack quantities. Special items of other than normal and standard design regularly sold by Seller cannot be returned. Seller will assess a minimum 25% restocking charge, at Seller's discretion. Delivery costs to and from the Purchaser's job location that were paid by the Seller will be deducted along with all loading and unloading costs and any costs of repair will also be deducted.

20. PATENTS. Seller agrees to defend and to protect Purchaser against loss or damage usually arising out of any legal action for infringement of any United States patent in connection with the manufacture of Seller's products sold to Purchaser.

Notwithstanding the foregoing paragraph, Seller shall have no obligation to defend and/or protect Purchaser under this Contract against a legal action for infringement of any United States patent to the extent such legal action relates to or is caused by (a) Purchaser's modification of the applicable product; (b) the use of a product for something other than its intended purpose; (c) design or instructions provided or required by Purchaser; or (d) any non-Seller equipment or good with which Seller goods are being used; or (e) Purchaser's intellectual property.

Seller's obligation to defend and protect Purchaser against a claim under this Article shall be subjected to and conditioned upon Purchaser giving Seller written notice of such claim, including all known material facts related thereto, within ten days after it is asserted against Purchaser (provided that the failure to give Seller written notice of a claim shall relieve Seller of its obligations hereunder only if and to the extent Seller is prejudiced thereby), and Seller having exclusive direction and control of the investigation, defense and settlement of such claim. In no event shall Seller be liable to Purchaser for any consequential or incidental damages whatsoever.

THIS ARTICLE IS AN EXCLUSIVE STATEMENT OF SELLER'S DUTIES AND PURCHASER'S REMEDIES RELATING TO INTELLECTUAL PROPERTY RIGHTS, INCLUDING WITHOUT LIMITATION PATENTS, TRADE SECRETS AND COPYRIGHTS, AND ANY DIRECT OR CONTRIBUTORY INFRINGEMENT THEREOF.

21. WARRANTIES. Seller warrants title to each individual product sold under this Contract and further warrants for a period on one (1) year after delivery, but only to the extent and limit of the purchase price paid for such individual product, that such product conforms to the specifications set for the in the Contract and is free from defects in material and workmanship under normal service and use for which it was designed (the "Warranties"). Seller's sole obligation and Purchaser's exclusive remedy under this warranty shall be limited to one of the following, as selected by Seller: delivering to Purchaser a replacement for any product or part thereof determined by Seller to be defective; repairing such product or part, or refunding the purchase price (or an equitable portion thereof) paid for such product or part by Purchaser. SELLER MAKES NO WARRANTY OF FITNESS FOR PARTICULAR PURPOSE OR MERCHANTABILITY, AND NO OTHER WARRANTY, WHETHER EXPRESS OR ARISING BY OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE IMPLIED, SHALL EXIST IN CONNECTION WITH SELLER'S PRODUCTS OR ANY SALE OR USE THEREOF. SELLER'S PROVISION OF REPLACEMENT, REPAIR OR REFUND ARE AND SHALL BE SELLER'S SOLE LIABILITIES AND OBLIGATIONS, AND PURCHASER'S SOLE RIGHT AND REMEDY, UNDER THE WARRANTIES.

Purchaser must notify Seller promptly and within the warranty period of any claim under this warranty.

Seller's warranty extends only to the first purchaser of a product from Seller or Seller's authorized distributor.

The Warranties are conditioned on:

- no repairs, modifications or alterations being made to the Product other than by Seller or its authorized representatives
- Purchaser handling, using, storing, installing, operating and maintaining the Product in compliance with any parameters or instructions in any specifications attached to, or incorporated into this Contract
- compliance with all generally accepted industry standards
- Purchaser discontinuing use of the Product after it has, or should have had, knowledge of any defect
- Purchaser providing prompt written notice of any warranty claims within the warranty period described below
- at Seller's discretion, Purchaser either removing and shipping the Product or non-conforming part thereof to Seller, at Purchaser's expense, or granting Seller reasonable access to the Products to assess the warranty claims
- Product not having been subjected to accident (including but not limited to force majeure), alteration, abuse or misuse; and
- Purchaser not being in default of any payment obligation.

The Warranties do not apply to any equipment not provided by Seller under this Contract.

Any Product that is described as being experimental, developmental, prototype, or pilot is specifically excluded from the Warranties and is provided to Purchaser "as is" with no warranties of any kind. Normal wear and tear is excluded from Warranties, including any expendable items that comprise part of the Product (such light bulbs etc.). Seller does not warrant or guarantee that any Product will be secure from cyber threats, hacking or similar malicious activity. Products that are networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Purchaser and/or end user against unauthorized access.

22. LIMITATION OF LIABILITY. SELLER IS NOT LIABLE, WHETHER BASED IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), WARRANTY, STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR (A) ANY COSTS (INCLUDING BUT NOT LIMITED TO COSTS OF REMOVAL AND REPLACEMENT OR SUBSTITUTE USE OR PERFORMANCE, COSTS OF CAPITAL); (B) LOSS OF: PROFITS, SAVINGS, REVENUE, USE, INTEREST, GOOD WILL, OPPORTUNITY, INFORMATION AND DATA, POWER, VOLTAGE IRREGULARITIES, FREQUENCY FLUCTUATION; (C) CLAIMS ARISING FROM PURCHASER'S THIRD PARTY CONTRACTS; OR (D) ANY OTHER GENERAL, DIRECT, SPECIAL, COLLATERAL, LIQUIDATED, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED BY PURCHASER OR THIRD PARTIES IN CONNECTION WITH THIS CONTRACT OR ANY PRODUCT PURCHASED HEREUNDER.

EXCEPT TO THE EXTENT CAUSED BY SELLER'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, SELLER'S MAXIMUM LIABILITY UNDER THIS CONTRACT IS THE ACTUAL PURCHASE PRICE RECEIVED BY SELLER FOR THE PRODUCT THAT GAVE RISE TO THE CLAIM.

PURCHASER AGREES THAT THE EXCLUSIONS AND LIMITATIONS IN THIS ARTICLE WILL PREVAIL OVER ANY CONFLICTING TERMS AND CONDITIONS IN THIS CONTRACT AND MUST BE GIVEN FULL FORCE AND EFFECT, WHETHER OR NOT ANY OR ALL SUCH REMEDIES ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THESE LIMITATIONS OF LIABILITY ARE EFFECTIVE EVEN IF SELLER HAS BEEN ADVISED BY PURCHASER OF THE POSSIBILITY OF SUCH DAMAGES. THE WAIVERS AND DISCLAIMERS OF LIABILITY, RELEASES FROM LIABILITY AND LIMITATIONS ON LIABILITY EXPRESSED IN THIS ARTICLE EXTEND TO SELLER'S AFFILIATES, PARTNERS, PRINCIPALS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, SUPPLIERS, AGENTS, AND SUCCESSORS AND ASSIGNS.

23. ASSIGNMENT. Purchaser may not assign this Contract as whole, parts of this Contract or any rights or obligations under this Contract without Seller's prior written consent.

24. MODIFICATION OF TERMS. This Contract may only be modified by a written instrument signed by authorized representatives of both parties.

25. LAW. This Contract shall be governed by and shall be construed by the law of the State of New York. Any action, suit or other proceeding arising, in whole or in part, out of or in connection with, or otherwise relating to, the Contract or the relationship of the parties that is the subject matter thereof, shall be brought exclusively in a state or federal court in the State of New York, and nothing herein shall prevent enforcement in another forum of any judgment obtained in a state or federal court in the State of New York.

26. SURVIVAL. The articles titled "Limitation of liability" and "Patents" survive termination, expiration or cancellation of this Contract.

27. SEVERABILITY. Should any provision of this Contract be or become invalid, illegal or unenforceable, the remaining provisions will not in any way be affected or impaired.