TERMS OF SALE

All sales of goods by Seller to Buyer are made pursuant to the following terms, which terms shall supersede any and all terms that might appear on Buyer's order form. No other or additional terms or conditions are or will be accepted and are expressly rejected.

ACCEPTANCE OF ORDERS - All orders, whether placed directly or through an agent, and all subsequent amendments thereto, are subject to a final approval and acceptance by Seller.

TERMS OF PAYMENT - Unless otherwise expressly agreed to in writing by Seller, payment of each invoice is required within thirty (30) days after date of shipment. Any balance unpaid after the required payment date shall be subject to a service charge of 1% per month from such date. Buyer agrees to pay all out-of-pocket costs and expenses (including, without limitation, all reasonable attorneys' fees and expenses) incurred by Seller in connection with the collection of amounts not paid by Buyer to Seller.

PRICE ADJUSTMENTS - Amendments made by the Buyer to orders already placed shall, without formal notice to the Buyer, be subject to extra charges. If the estimated shipping date for the goods is more than sixty (60) days after date of order, the price of the goods are subject to increase by Seller.

TAXES - Any sales, use, excise and other taxes applicable to this transaction and the goods and/or services furnished by Seller are not included in the price and shall be paid by Buyer when due. If Seller pays any such taxes, Buyer shall reimburse Seller upon demand.

WARRANTY – Seller warrants that, for a period of one (1) year from the date of its delivery of the goods to the carrier, the goods will be free from defects in workmanship and materials. IN THE EVENT OF ANY BREACH OF SUCH WARRANTY OR CONTRACT OR FOR NEGLIGENCE OR OTHERWISE WITH RESPECT TO ANY GOODS, SELLER'S SOLE OBLIGATION SHALL BE EXCLUSIVELY LIMITED TO, AT THE OPTION OF SELLER, REPAIR OR REPLACEMENT, F.O.B. SELLER'S POINT OF SHIPMENT, OF ANY PARTS THAT SELLER DETERMINES TO HAVE BEEN DEFECTIVE OR, IF SELLER DETERMINES THAT SUCH REPAIR OR REPLACEMENT IS NOT FEASIBLE, TO A REFUND OF THE PURCHASE PRICE UPON RETURN OF THE GOODS TO SELLER. NO CLAIM AGAINST SELLER FOR ANY BREACH OF SUCH WARRANTY SHALL BE VALID OR ENFORCEABLE UNLESS BUYER'S WRITTEN NOTICE THEREOF IS RECEIVED BY SELLER WITHIN ONE (1) YEAR FROM THE DATE OF SELLER'S DELIVERY TO THE CARRIER. EXCEPT FOR THE WARRANTY SET FORTH ABOVE, SELLER MAKES NO OTHER WARRANTIES WITH RESPECT TO THE GOODS, WHETHER EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND/OR THOSE ARISING BY STATUTE OR OTHERWISE BY LAW OR FROM ANY COURSE OF DEALING OR USE OF TRADE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY WITH RESPECT TO ANY GOOD, WHETHER IN CONTRACT, TORT OR OTHER THEORY OF LAW, FOR LOSS OF PROFITS OR LOSS OF USE, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, DIRECT OR INDIRECT DAMAGES, HOWSOEVER CAUSED. SELLER'S MAXIMUM LIABILITY TO BUYER WITH RESPECT TO THE GOODS SHALL IN NO EVENT EXCEED THE PRICE PAID BY BUYER FOR THE GOODS THAT ARE THE SUBJECT OF THE APPLICABLE CLAIM. Seller shall not be liable for any damage, injury or loss arising out of the use of the goods if, prior to such damage, injury or loss, such goods are: (1) damaged or misused following Seller's delivery to the carrier; (2) not maintained, inspected, or used in compliance with applicable law and Seller's written instructions and recommendations; or (3) installed, repaired, altered or modified without compliance with such laws, instructions or recommendations.

INDEMNIFICATION AND SAFE OPERATION - Buyer shall comply with and require its employees to comply with directions set forth in instructions and manuals furnished by Seller and shall use and require its employees to follow such instructions and manuals and to use reasonable care in the use and maintenance of the goods. Buyer shall not remove or permit anyone to remove any warning or instruction signs on the goods. In the event of personal injury or damage to property or business arising from the use of the goods, Buyer shall, within forty-eight (48) hours thereafter, give Seller written notice of such injury or damage. Buyer shall cooperate with Seller in investigating any such injury or damage and in the defense of any claims arising therefrom. If Buyer fails to comply with this section or if any injury or damage is caused, in whole or in part, by Buyer's failure to comply with applicable federal or state safety requirements, Buyer shall indemnify, defend and hold Seller harmless against any claims, loss or expense for injury or damage arising from the use of the goods.

DELIVERY AND DELAYS - Unless otherwise specified herein, deliveries shall be F.O.B. Seller's point of shipment and risk of loss shall pass to Buyer upon Seller's delivery to carrier. Title to goods shall pass to Buyer at the same time that risk of loss passes, except in case of shipments to points outside of the United States in which case title shall pass to Buyer immediately after the goods leave the United States. All shipping dates are approximate and Seller shall not be liable for loss or damage because of delays occasioned by labor disputes, damage to facilities, failure of suppliers or subcontractors to meet scheduled deliveries, acts of God or any other cause beyond Seller's reasonable control or making its performance commercially impracticable. Time is not of the essence unless otherwise agreed to in a writing signed by Seller. Notwithstanding other provisions hereof, if shipment is delayed at Buyer's request, the goods shall be deemed to be stored at Buyer's risk and expense and Seller may thereupon bill Buyer for the full price and storage costs. Buyer shall pay such bill within 30 days after mailing thereof.

INSPECTION - Buyer acknowledges that ten (10) days after receipt of the goods will provide Buyer with a reasonable amount of time to inspect the goods. Therefore, the goods shall be subject to final inspection and acceptance by Buyer within ten (10) days after receipt by Buyer. Buyer's failure to inspect within said time shall constitute a waiver of Buyer's rights of inspection and rejection. Buyer's right of rejection hereunder shall be limited to non-conforming goods. Upon inspection of the goods within said ten (10) days, Buyer shall immediately notify Seller in writing as to any non-conforming goods that Buyer intends to reject and particularize in detail the reasons for such rejection. If, upon inspection, Buyer fails to immediately notify Seller as to which non-conforming goods it intends to reject, such failure to notify shall be deemed an acceptance of the goods by Buyer. All non-conforming goods not properly rejected by Buyer hereunder shall be deemed accepted by Buyer.

CHANGES AND CANCELLATION - Seller reserves the right to change or cancel any order whenever circumstances require allocation of production or delivery or Seller deems change or cancellation to be necessary to comply with applicable laws, ordinances, regulations, directives or administrative actions. Seller reserves the right to make changes in materials or design that it determines appropriate for the goods. Buyer shall not change or cancel any order without Seller's prior written approval. Any cancellation by Buyer approved by Seller shall be subject to Seller's return and order cancellation policy in effect at such time, including applicable restocking and handling charges and other conditions of return.

SECURITY INTEREST AND REPOSSESSION - Until full payment has been made therefor, Seller shall have a security interest in goods shipped to Buyer and the goods shall remain personal property. Upon request Buyer shall execute and deliver to Seller security agreements and other documents further evidencing Seller's security interest. Buyer authorizes Seller to file a financing statement or statements relating to the goods, as Seller may deem appropriate and appoints Seller as Buyer's attorney-in-fact for the limited purpose of executing (without requiring Seller to do so) documents in Buyer's name and performing other acts that Seller deems appropriate to perfect and continue its security interest and to protect and preserve the goods. In the event Buyer defaults in making any payment due Seller, Seller, in addition to any other rights or remedies provided by law, shall have the right, with or without legal process, to enter the place where said goods are located and to repossess the goods in accordance with the Uniform Commercial Code.

ASSURANCES - Shipment by Seller shall at all times be subject to the prior approval of its credit personnel and Seller may, at any time, decline to make shipment except upon receipt of prior payment or upon other terms and conditions or security satisfactory to Seller.

PATENTS - Except as to goods manufactured according to design supplied by Buyer, Seller will defend and hold Buyer free and harmless in a suit or proceeding brought against Buyer insofar as it is based on a claim that use of the goods by Buyer constitutes an infringement of any existing U.S. Patents, provided, however, that Buyer gives Seller prompt written notice of such suit or proceeding; permits Seller, through its counsel, to defend and/or settle the same; and gives Seller all necessary information, assistance and authority to enable Seller so to do. If Buyer's use of the goods is held to constitute infringement and further use is enjoined, Seller shall, at its option, either: (i) procure for Buyer the right to continue using the goods; (ii) replace the goods with non-infringing goods; or (iii) modify the goods to non-infringing goods. The foregoing states Seller's entire liability for patent infringement and shall not be construed to render Seller liable for damages based on product output.

LIMITATIONS ON ACTIONS - Any action against Seller for breach of warranty, negligence or otherwise must be commenced by Buyer within one (1) year after: (a) the date any alleged claim accrues; or (b) the date of delivery of the goods to Buyer, whichever is earlier.

MISCELLANEOUS -This instrument constitutes the entire agreement between Seller and Buyer, superseding all previous understandings and writings regarding this transaction. Any amendment or modification of this agreement shall be void unless in writing and signed by Seller. This agreement shall be governed by and construed under the laws of the State of New York. Any action to enforce, arising out of, or relating in any way to, any of the provisions of this agreement shall be brought and prosecuted in a court located in Buffalo, New York or the Western District of New York as is provided by law, and Seller and Buyer consent to such jurisdiction. No delay or omission by Seller in exercising any right or remedy hereunder shall be a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. All rights and remedies of Seller are cumulative.

NO RELIANCE – Seller's employees, contractors and/or agents may have made oral statements or representations about the performance or operation of the goods. Such statements do not constitute warranties and are not part of this contract. Buyer expressly disclaims any reliance on such statements as a basis for entering into this contract.