

CANADA TERMS AND CONDITIONS OF SALES

1. The Seller's acceptance of Buyer's Order is expressly limited to and conditioned upon Buyer's assent to the terms and conditions listed herein. Buyer's execution of this Sales Order shall constitute Buyer's acceptance of the purchase price and Equipment listed on the reverse side hereof ("Equipment") and of the terms and conditions contained in this Sales Order, and the exclusion of any terms and conditions otherwise stated by Buyer or contained in Buyer's purchase documents or correspondence which conflict with or limit the terms and conditions contained herein.
2. This Sales Order is subject in all respects to approval and acceptance by Seller at its home office and when so accepted is binding upon both parties, but Buyer waives notice of such acceptance. If the Equipment listed on the reverse side hereof is not in Seller's stock, this Sales Order is also subject to manufacturer's availability.
3. If Buyer checks the box on the reverse side hereof indicating that the Equipment will be shipped to Buyer, Seller shall deliver all goods to a carrier for transport to Buyer's place of business or as otherwise directed in writing. Buyer assumes all responsibility for loss or damage to the Equipment from any cause upon delivery to the carrier ("FOB Shipment") and title to the Equipment shall pass to Buyer at such time. If Buyer checks the box on the reverse side hereof indicating that Buyer is picking up the Equipment, Buyer assumes all responsibility for loss or damage to the Equipment from any cause at time of its execution of this Sales Order ("FOB Order") and title to the Equipment shall pass to Buyer at such time.
4. The prices specified on the reverse side hereof do not include any Federal, Provincial, or local taxes which may be assessed or levied with respect to any of the Equipment ordered by Buyer. The amount of such taxes will be paid by Buyer, will be billed to Buyer, and will be due and payable upon presentation of an invoice therefor. If such taxes are paid by Seller, any sum so paid will be charged and will be paid upon presentation of an invoice therefor.
5. All transportation, rigging and drayage charged for the Equipment from Seller's shipping point will be borne by Buyer.
6. Prices for the Equipment are stated on the reverse side hereof and are net due on invoice and all payments are non-refundable unless otherwise stated on the front of this Sales Order. In the event that the manufacturer's applicable price is increased prior to delivery of the Equipment under this Sales Order, the price of undelivered units hereunder will be increased to reflect Seller's price at the time of delivery of the undelivered Equipment to Buyer.
7. Should Buyer default in any of its obligations to Seller hereunder or remove any or all of the said Equipment from the premises of Buyer, without consent of Seller, or in the event that Buyer shall mortgage or part with possession of same without consent of Seller, or in the event that Buyer becomes insolvent or makes an assignment for the benefit of creditors, or in the event that a petition is filed by or against Buyer under the Bankruptcy and Insolvency Act, Companies' Creditors Arrangement Act, Winding Up Act or similar legislation, either voluntarily or involuntarily (including, without limitation, a petition for reorganization, arrangement or extension), or under any other insolvency law or laws providing for the relief of debtors, then if, and to the extent, permitted by law, Seller shall have the right without prior notice to Buyer to enter into and upon the premises where the Equipment covered by this Sales Order may be found and take possession thereof, without further proceedings, and Seller may without notice declare this Agreement terminated and may retain the consideration received by it thereunder as liquidated damages. Should a claim hereunder be placed by Seller in an attorney's hands for collection, or in the event of other litigation, reasonable attorney's fees and costs will be paid by Buyer to Seller. Buyer will join Seller in executing one or more financing statements or other documents in form satisfactory to Seller and Buyer agrees to do and hereby appoints Seller its attorney-in-fact to do, at the option of Seller and at Buyer's expense all acts which Seller may deem necessary or desirable to protect and continue perfected the security interest contemplated herein.
8. Seller will not be liable for delays in shipment or performance nor will Buyer be excused from performance because of such delays.
9. Any failure of performance by Seller hereunder which is due to causes beyond Seller's control, including, but not limited to, acts of civil or military authority, national emergencies, labor difficulties, fire, flood, or other catastrophes, Act of God, quarantine, insurrection, war, riots, failure of transportation, and delays of suppliers, shall not be deemed to be a default by Seller.
10. Seller agrees to the extent they are assignable, to assign or otherwise afford to Buyer, without recourse to Seller, the benefit of any manufacturer's or vendor's warranties with respect to the Equipment received by Seller. Notwithstanding the foregoing, Seller tenders the Equipment to Buyer, "AS IS, WHERE IS". NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE ARE EXTENDED AND SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITIES IN CONNECTION WITH THE SALE OF THE EQUIPMENT, SELLER WILL NOT BE LIABLE FOR ANY DAMAGES, DIRECT, CONSEQUENTIAL OR SPECIAL, ARISING UNDER STATUTES, THROUGH NEGLIGENCE OR OTHERWISE; SUCH DAMAGES BEING HEREBY EXPRESSLY WAIVED. Seller will not be liable for infringements of any type resulting from the sale, performance or use of the Equipment.
11. This Sales Order, including only modifications or additions agreed to in writing by Seller, expresses the entire understanding of the parties with reference to the subject matter hereof, and no representations or agreements modifying or supplementing the terms of the Sales Order shall be valid unless in writing signed by a person authorized to sign Agreements on behalf of each party.
12. Should Buyer fail to pay any invoice to Seller in accordance with the terms of Seller's invoice, Buyer shall pay to Seller interest on such delinquent payment from the date payment was due until paid at the rate of 1 1/2% per month unless a lower rate is the maximum rate allowable by the laws of the jurisdiction in which Buyer's principal place of business is located. Any provision herein that may be invalid or illegal in any Province shall fail by itself in that Province, but shall in no way be held to invalidate any of the remaining provisions otherwise not invalid or illegal.
13. Claims for shortages of shipment under this Sales Order or other claims or disputes relating to the Equipment must be made by Buyer and delivered to Seller in writing within ten (10) days after delivery of such shipment to Buyer or such claim or dispute shall be waived by Buyer.
14. In no event will Seller be liable for any direct, indirect, consequential or special damages, or loss of profits.
15. Buyer will indemnify and save Seller harmless from all claims, expenses, liability and damages resulting from injuries to persons or damage to property arising from or connected with the Equipment, or the Equipment's use, operation or failure to operate after shipment of same to Buyer, possession of same by Buyer or any act or omission of Buyer or its employees or agents.
16. This Sales Order is not transferable in whole or in part without Seller's prior written consent.
17. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario.