

**TERMS AND CONDITIONS OF SALE**

- Parties.** "Company" means Morrell, LLC, a Michigan limited liability company. "Customer" means the entity or person submitting the purchase order to Company.
- Application.** These Terms and Conditions of Sale define the relationship of Customer and Company and apply to all sales of products, parts and/or supplies (individually and collectively, "Products") by Company to Customer. Customer acknowledges and agrees that these Terms and Conditions of Sale are incorporated in, and are a part of, each quotation, purchase order, invoice, release, requisition, work order, shipping instruction, specification and any other document, whether expressed verbally, in written form or electronic commerce, relating to the sale of Products by Company to Customer (such documents are collectively referred to as the "Agreement").
- Quotation Expiration.** Written quotations are valid for a period of thirty (30) days unless otherwise noted by Company. Company will have the right to withdraw any quote which has not been accepted by Customer within such thirty (30) day time period.
- Pricing.** Prices for Products and other related information shown in any Company or manufacturer product publication including, but not limited to, catalogs, brochures and websites are subject to change without notice. Prices do not include related freight charges, use tax, sales tax, excise tax, value-added tax, or similar taxes or charges of any nature whatsoever imposed by any governmental authority unless otherwise expressly noted by Company.
- Taxes.** Any use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Company and Customer shall be paid by Customer in addition to the invoiced price. In the event Company is required to pay any such tax, fee or charge, Customer shall reimburse Company therefor or, in lieu of such payment, Customer shall provide Company at the time the order is submitted, an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge.
- Terms of Payment.** Unless otherwise specifically agreed in writing by Company, the total price is due and payable to Company, without setoff or other deductions or charges, net thirty (30) days of Company's invoice. Any amounts due by Customer to Company which are unpaid on or after thirty (30) days of Company's invoice will bear interest at the rate of 1.5% per month, or the maximum rate permitted by law, whichever is less. The accrual or payment of any interest as provided above will not constitute a waiver by Company of any rights and remedies in connection with a default by Customer. Customer will pay all court costs, attorneys' fees and other costs incurred by Company in collecting past due amounts, including interest. If shipment or delivery of Products is delayed by or at the request of Customer, payment will remain due in full, thirty (30) days from the date of Company's invoice. In such event, Company may impose, and Customer shall pay, storage charges and other incidental expenses incurred by Company as a result of the delay, in addition to any interest on late payments as described above.
- Security Interest.** As security for payment of all amounts due to Company, Customer grants to Company a security interest in all Products sold by Company to Customer, and Company will have all rights of a secured party under the Uniform Commercial Code with respect to such Products. Customer appoints Company as its attorney-in-fact with authority, at Company's option, to take such actions as Company deems reasonable in the circumstance to perfect the above security interest in any one or more jurisdictions, and Customer shall pay all applicable filing fees.
- Limited Warranty.** The warranty obligations of Company for Products sold by Company but manufactured by others will in all respects conform and be limited to the warranty extended by the manufacturer of such Products, if transferable. For Products manufactured by Company, Company will repair or replace such Products which prove defective within one (1) year from the date of shipment upon return of the same at Customer's expense when such defects are due to defective material supplied by Company or defective workmanship, provided that the Products shall have been properly assembled and utilized in accordance with Company's design thereof and instructions relating thereto.  
  
The above warranties do not extend to any loss or damage due to misuse, accident, abuse, neglect, normal wear and tear, negligence (other than Company's), unauthorized modification or alteration, use beyond rated capacity, unsuitable power sources or environmental conditions, improper installation, repair, handling, maintenance or application or any other cause not the fault of Company.  
  
EXCEPT AS EXPRESSLY SET FORTH ABOVE, COMPANY MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, AND COMPANY EXPRESSLY DISCLAIMS ANY WARRANTIES IMPLIED BY LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND INFRINGEMENT. CUSTOMER ASSUMES FULL RESPONSIBILITY THAT THE PRODUCTS PURCHASED UNDER THE AGREEMENT MEET THE SPECIFICATIONS AND/OR INTENDED USE OF CUSTOMER AND COMPANY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT THERETO.
- Customer Specifications.** With respect to Products manufactured, and/or designed to Customer's own specifications Customer shall defend and save Company harmless from and against any claim, suit, expense or otherwise which shall be asserted or brought against Company by reason of Company's manufacture or sale of such Products.
- Delivery.** Company will use commercially reasonable efforts to insure on time delivery, provided that any delay in shipment shall not relieve Customer of its obligations under the Agreement. In no event shall Company be liable for any loss, damage or expense incurred by Customer or any of its customers arising from late or non-delivery of Products. Customer shall pay all shipping, freight and insurance costs associated with delivery of the Products, and Customer shall be responsible for filing and pursuing claims with carriers for any loss of or damage to the Products while in transit.
- Title and Risk of Loss.** Title to and risk of loss or damage to the Products will pass to Customer upon delivery by Company F.O.B. Company's facility.
- Inspection and Acceptance.** Customer shall have a period of 2 business days from the date of delivery of the Products to inspect the Products and notify Company of any defect or deficiency. In the event of any defect or deficiency, Customer must give written notice thereof to Company within the above inspection period and permit Company the opportunity to inspect such Products. Failure by Customer to give such notice constitutes unqualified acceptance of the Products. Customer's sole remedy for any defects or deficiencies in the Products which are discovered by Customer within the inspection period and validated by Company shall be replacement of such Products (in the case of a defect) or shipment of further Products (in the case of a deficiency). In no event shall Customer be permitted to reject any shipment to the extent of a deficiency in the Products delivered.
- Cancellation or Termination.** In the event of cancellation of the Agreement by Customer following Company's commencement of performance hereunder, or in the event of default under the Agreement by Customer which is not cured within thirty (30) days after notice by Company, Customer will pay to Company, on demand, all direct and indirect costs (including without limitation all applicable restocking or cancellation charges including reimbursement for direct costs assessed by the manufacturer) incurred directly or indirectly by Company in connection with the Agreement, all as reasonably determined by Company, plus (i) for projects which exceed \$500,000, a reasonable profit margin; or (ii) for projects less than or equal to \$500,000, any profit to be negotiated with Customer.



14. **Changes in Detail of Design.** Company and/or its suppliers shall be entitled to make any and all changes in the details of the design, fabrication or arrangement of the Products as Company and/or its suppliers, in their sole discretion, determine will constitute an improvement upon the Products or any specifications of designs previously furnished to Customer.

15. **Technical Support.** Unless otherwise specifically provided on the quotation or invoice, the Agreement does not include any services of Company in connection with installation, testing or evaluation of the Products. Company will, however, consistent with its capabilities and subject to scheduling acceptable to Company, make available to Customer, at Customer's expense, technical support services relating to the Products at the rates then imposed by Company, together with any out-of-pocket expenses incurred by Company, in connection with such technical support. The sole remedy of Customer in connection with any acts or omissions of Company in the provision of such technical support will be the provision of further technical support to Customer reasonably required to correct the act or omission.

16. **Modifications and Waiver – Entire Agreement.** Neither party has rights, warranties or conditions expressed or implied, statutory or otherwise, other than those contained in the Agreement. The Agreement contains the entire agreement between Company and Customer and can be modified or rescinded only by a writing signed by both parties. No waiver of any provision of the Agreement will be binding unless in writing signed by an authorized representative of the party against whom the waiver is asserted, and unless expressly made generally applicable, will apply only to the specific case for which the waiver is given. Failure of either party to insist upon strict performance of the Agreement will not be construed as a waiver of any term or condition of the Agreement.

Any document submitted by Customer to Company confirming its intention to purchase Products described in the Agreement (purchase orders, releases or other documents of purchase) will be deemed to constitute a confirmation and acceptance of the Agreement, even if such document states terms in addition to or different from those in the Agreement. All agreements between Company and Customer will be solely under the terms and conditions of the Agreement and these Terms and Conditions of Sale, and Company objects to any and all such additional or different terms contained in any document submitted to Company by Customer. Any execution by Company of any other document submitted by Customer in connection with the purchase of Products does not constitute acceptance of or agreement to any terms and conditions in addition to or different from those contained in the Agreement and these Terms and Conditions of Sale, but will constitute only acknowledgment of receipt of such document. In addition, notwithstanding any terms contained in any documents submitted by Customer in connection with the purchase of Products described under the Agreement, the acceptance of delivery by Customer of Products described in the Agreement will constitute a course of conduct constituting Customer's agreement to the terms and conditions of the Agreement and these Terms and Conditions of Sale, to the exclusion of any additional or different terms and conditions.

17. **Limitations on Liability.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL THE TOTAL, AGGREGATE LIABILITY OF COMPANY UNDER THE AGREEMENT EXCEED THE COST OF THE PRODUCTS GIVING RISE TO THE CLAIM OR LIABILITY. FURTHER, IN NO EVENT WILL COMPANY BE LIABLE OR RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DAMAGE TO PROPERTY OR LOSS OF USE. EACH PROVISION HEREOF WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR CONDITION OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND IS TO BE ENFORCED AS SUCH.

18. **Solvency.** Customer represents to Company that it is solvent and that on each delivery of Products, this representation shall be deemed renewed unless notice to the contrary is given in writing by Customer to Company at or before delivery of the Products. Insolvency shall have the meaning set forth in MCL 440.1201(w).

19. **Compliance with Laws.** Customer will be responsible for compliance with any and all federal, state or local laws or regulations respecting safety or respecting use of the Products, and shall indemnify and hold Company harmless from and against any and all claims of violations of such laws or regulations or other claims of personal injury or property damage directly or indirectly related to the installation, maintenance or operation of the Products.

20. **Force Majeure.** Company shall not be liable for any loss, damage or delay arising out of its failure to perform hereunder due to causes beyond its reasonable control, including, without limitation, acts of God, acts or omissions of Customer, acts of civil or military authority, fires, strikes, floods, epidemics, pandemics, quarantine restrictions, war, riots, acts of terrorism, or delays in transportation or transportation embargoes. In the event of such delay, Company's performance date(s) will be extended for such length of time as may be reasonably necessary to compensate for the delay.

21. **Export Controls.** Products supplied hereunder may be subject to various export laws and regulations. It is the responsibility of the exporter to comply with all such laws and regulations. Notwithstanding any other provision in the Agreement to the contrary, in the event that U.S. or local law requires export authorization for the export or re-export of any Products or associated technology, no delivery can be made until such export authorization is obtained, regardless of any otherwise promised delivery date. In the event that any required export authorization is denied, Company and Company's supplier will be relieved of any further obligation relative to the sale and delivery of the Products subject to such denial without liability of any kind relative to Customer or any other party.

22. **Nuclear Indemnity.** If the Products are to be used in any nuclear installation or activity, then Customer or the ultimate user shall (i) secure and maintain the maximum nuclear property damage liability insurance protection available, (ii) enter into and maintain a government indemnity agreement, and (iii) waive and require its insurers to waive all rights of recovery or subrogation against Company for, and shall indemnify and hold Company harmless from and against any and all claims, losses or damages (including consequential or special damages of any kind) arising out of a Nuclear incident as that term is defined in the Atomic Energy Act of 1954, as amended.

23. **Governing Law.** The Agreement will be governed by and construed in accordance with the laws of the State of Michigan. Customer and Company consent to the exclusive jurisdiction over and venue in any legal proceeding directly or indirectly arising out of or relating to the Products shall be in applicable state or federal courts located in Michigan. Any cause of action or claim the Customer may have must be commenced within one (1) year after the claim or cause of action arises or it shall be forever barred.

24. **Waiver of Jury Trial.** THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THAT THEY MAY HAVE TO A TRIAL BY JURY, THIS WAIVER BEING A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.