



## Limited Warranty and Remedy

The Seller warrants for a period of one year from date of shipment that the materials supplied by the Seller (RACO) shall be free from defects that substantially impair product operation or performance, provided that the materials are used in an appropriately designed application and are installed and maintained in strict accordance with all applicable safety codes, building standards and Seller's recommendations. This warranty is limited to defects appearing within one year from the date of shipment and written notification defining such defect must be received by the Seller within that one year period. The obligation of Seller under this warranty is limited to the repair or replacement of defective material or the repayment by the Seller of the original purchase price paid for the defective material. The Seller reserves the exclusive right to select any one of the above-mentioned remedies. THE SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EITHER EXPRESSED OR IMPLIED, CONCERNING THE MATERIAL'S MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS LIMITED WARRANTY REPRESENTS AN EXCLUSIVE REMEDY AND SELLER SHALL HAVE NO OTHER LEGAL OBLIGATION, IRRESPECTIVE OF LEGAL THEORY OR SELLER'S NEGLIGENCE. IN NO EVENT WILL THE SELLER BE LIABLE FOR DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO COST OF REPAIRS, LOSS OF PROFITS OR USE. NO CLAIM FOR BREACH OF THIS WARRANTY MAY BE FILED OR OTHERWISE ASSERTED MORE THAN THREE YEARS AFTER THE DATE OF SHIPMENT.

**Warranty of Outside Suppliers** – Items manufactured by others and supplied by the Seller carry the manufacturer's warranty only. In replacing defective items manufactured by others, the Seller will not assume charges for freight or labor.

## Terms and Conditions of Sale

**1. Acceptance of Orders and Minimum Charge** – The acceptance of orders is subject to credit approval and acceptance by the Seller. Minimum charge is \$75.00 net per order. Seller acceptance shall be communicated only via written fax confirmation.

**2. Acceptance of Varying Terms** – Should the Buyer object to any of the Seller/s terms and conditions, he must forward his objection in writing to the Seller together with his purchase order or request for quotation. If a written objection is not received by the Seller within three (3) business days of confirmation, and accepted in writing by an officer of the Seller, the Buyer shall be deemed to have assented to all of the Seller's terms and conditions.

None of the Buyer's terms and conditions is acceptable to the Seller unless the Buyer's terms and conditions are agreed to in writing by an officer of the Seller prior to the acceptance of the Buyer's order or as part of the Seller's job quotation. Otherwise, the sale is conditioned upon the Buyer's acceptance of the Seller's terms and conditions and any orders accepted by the Seller are accepted and conditioned upon the Seller's terms and conditions as the only terms and conditions applicable to the sale.

None of the terms and conditions in the Buyer's purchase order, acknowledgement form, confirmation or other document issued by the Buyer which conflict with the Seller's terms and conditions, or increase the Seller's obligations, shall be binding on the Seller unless specifically identified and accepted in writing by an officer of the Seller.

**3. Claims** - Claims by the Buyer for any non-conforming or defective materials that can be identified by inspection must be submitted in writing to the Seller within ten (10) working days after receipt of shipment. If the Buyer requires eight (8) hours or less of corrective field labor per shipment, no prior authorization from the Seller is required and those labor expenses will be considered for reimbursement. The Seller must authorize in writing corrective field labor by the Buyer exceeding eight (8) hours. Unauthorized backcharges, claims, deducts or withheld payments will not be accepted. The Seller shall have the exclusive right to select the final remedy for defective material which will be expressly limited to the repair, replacement or repayment of the original purchase price paid by the Buyer upon return of the material to the Seller. Seller shall not be liable for any penal, incidental or consequential damages.

**4. Back Orders** – Back orders or any portion of the order omitted from the original shipment will be invoiced at the same price, terms and conditions as if it were part of the original shipment.

**5. Cancellations and Returns** – Cancellation and return of custom orders will result in substantial cost to the Buyer. The Seller will issue a credit for the scrap value only on custom orders at the Seller's discretion. Return or cancellation of standard stock items may be made only after prior written authorization has been issued by the Seller. Any standard stock material received in a resalable condition will be credited based on a 20% restocking charge of the Seller's sale price with a minimum charge of \$100.00 net. All freight charges on returned goods must be paid by the Buyer. No material will be accepted for return beyond six months from the original shipment date.

**6. Change Orders** – Orders shall not be amended, modified or rescinded except by written change order signed by an authorized official of each party expressly referring to a specific change and order. After orders are released to fabrication, they cannot be changed or cancelled. Any late changes will be processed as new orders, subject to additional fees as needed.

**7. Clerical Errors** – Clerical and arithmetical errors are subject to correction by the Seller.

**8. Credit Extension** – No credit will be extended by the Seller unless the Buyer's credit has been approved and is satisfactory at the time of shipment. The Seller reserves the right, at any time, to revoke credit extended to buyers because of Buyer's failure to pay for goods when due or for any other reason deemed sufficient by the Seller. Seller is authorized to request assurance of performance by buyer.

**9. Delays in Shipping & Force Majeure** – Seller will use its best effort to ship goods ordered by Buyer on scheduled shipping dates. Seller shall not be liable to Buyer for damages for late shipments nor shall the validity of this agreement be affected by Force Majeure; meaning acts of God, fire, war, civil commotion, strikes, shortages of labor or material, casualties, or any other conditions beyond the control of Seller.

If a Buyer elects to delay shipment of goods later than the original shipping date, the Seller may invoice Buyer on original shipping date and Buyer agrees to pay as if the goods were timely shipped. Buyer also agrees to pay reasonable storage charges in the event of such delayed shipping.

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10. **Design Responsibility** – The Seller’s continuing endeavor to provide the best in product technology requires that it retain the right to change or modify its products without prior notice. The product illustrations used in the Seller’s brochures and catalogs are for identification only and may not represent current sizes or proportions. If any material shall be manufactured or sold by the Seller to meet the Buyer’s specifications or requirements and is not a part of the Seller’s standard line offered to the general trade in the usual course of the Seller’s business, then the Buyer agrees to indemnify, defend, protect and hold harmless the Seller against all claims, damages and law suits for actual or alleged infringement of any U.S. or foreign patent.

11. **Entire Contract** – The Terms and Conditions and LIMITED WARRANTY reflect the entire agreement between the Seller and Buyer which supersedes all prior negotiations and agreements, oral or written. The agreements reflected herein may not be modified or altered except by a written agreement signed by officers of both the Seller and Buyer. Buyer and Seller agree there shall be no third party beneficiary to the Warranty or Terms and Conditions.

12. **Indemnification** – In consideration of the price of goods sold to the Buyer by the Seller, Buyer waives any claim for contribution or indemnity seeking relief not within the limited warranty and agrees that in no event shall Seller be responsible to Buyer or any third parties for any incidental or consequential damages suffered by Buyer or third parties other than the Seller’s exclusive right to select the final remedy which will be expressly limited to either the repair or replacement of material sold or the repayment of the original purchase price paid by the Buyer. In the event of a claim against Seller for consequential or incidental damages, Buyer agrees to defend, indemnify and hold harmless the Seller from such claims and damages.

13. **Jurisdiction Venue and Governing Law** – Any controversy or claims arising out of or relating to this contract shall be settled by arbitration in accordance with the Commercial Arbitration rules of the American Arbitration Association, and judgment upon the award rendered may be entered in court having jurisdiction thereof. Exclusive venue for any action hereunder shall be Los Angeles, CA and California law shall apply.

14. **Late Payment** – Unless otherwise expressly provided, all payments are Net 30 Days after date of invoice. Seller may at any time require payment in advance or satisfactory security that invoices will be paid when due, if in the Seller’s judgment the same becomes necessary. All orders are subject to credit approval and to acceptance by Seller. If payment is not made when due, 1.5% per month interest will be charged thereon from the due date until paid.

15. **Limitation of Liability** – The Seller’s only liability for defective materials shall be limited to the Seller’s exclusive right to select the final remedy which will be expressly limited to the repair, replacement or repayment of the original purchase price paid by the Buyer. Repayment is to be made to the Buyer upon return of defective material to the Seller. Under no circumstances will any job site repairs or replacements made by others or labor charges for same be accepted, unless performed in compliance with the terms of paragraph 3.

16. **Packing, Shipping** – Special or excess packing required to be in compliance with Buyer’s request will result in a special packing charge to the Buyer. Unless otherwise agreed by Seller, all items are shipped F.O.B. Seller’s plant and the Buyer shall bear the risk of loss and shall in such circumstances be limited solely to an action against carriers or third parties other than the Seller.

We will ship all orders via best reasonably available transportation facilities unless specified otherwise by the Buyer. Items omitted from the original shipment due to shortage of material, or other causes beyond the control of the company, will be invoiced at the same price and terms stated for the original shipment. When the balance due shipment is less than 250 lbs., the Seller will prepay the freight, otherwise, the shipment is F.O.B. the Seller’s plant.

17. **Pricing and Price Protection** – Unless specified as a Net Price, all prices are List Prices subject to discount. These prices and discounts are subject to change without notice. In the event of a price increase or decrease, orders on hand will be invoiced at the price in effect when they were accepted, providing they can be shipped at the Company’s convenience thereafter.

18. **Quotations and Acceptance** – Written quotations made by the Seller will be subject to Buyer’s written acceptance and placement of order within 60 days; for shipment within 30 days thereafter.

19. **Samples** – The Seller will be pleased to offer a price quotation to the Buyer for standard and special samples.

20. **Shop Drawings** – Shop Drawings can be provided by Seller on most products. Consult our factory for price and availability. Seller’s shop details show our interpretation of the project. Once drawings are complete, they will be submitted for Buyer approval. Upon the Seller’s receipt of final approved drawings, the obligation of the Seller will be satisfied by shipment of materials in accordance with approved drawings. If extensive rework is required on the drawings, added costs may be incurred by the Buyer.

21. **Special Job Basis Terms** – Job basis orders will be subject to the same terms as open account orders. The job basis agreement is a vehicle for expanding a customer’s credit line, and is used to keep a customer’s open line available for smaller, quick turn orders. It is not a vehicle for extended payment terms and the terms and conditions stated herein apply.

22. **Taxes and Duties** – State sales tax will be charged on all sales unless Buyer has submitted a completed resale certificate. The Seller shall retain this certificate in its files for reference in connection with any sales to Buyer. Buyer agrees to promptly notify the Seller in the event that the certificate is revoked or surrendered. Other taxes and duties are not included in list, net or quoted prices unless specifically requested in writing by the Buyer. Any increase in duties or any local, state or federal tax or other Governmental charge upon the production, sale or transportation of the merchandise herein specified which becomes effective during the life of this contract may be added by Seller to the price herein provided. Any reductions in the above enumerated categories may be deducted from the price.

23. **Tools, Dies and Drill Guides** – Equipment manufactured or acquired specially to produce goods for the Buyer shall be the Seller’s property and remain in the Seller’s possession. If the Buyer does not order goods produced with such equipment for a period of one year, then the Seller may dispose of it.

24. **Uniformity** – Goods furnished by the Seller shall be subject to the Seller’s standard tolerances for variations.

25. **Waiver of Terms** – Any accommodation, including an extended course of performance, granted to the Buyer which vary from the terms herein shall not constitute a waiver of any of Seller’s rights hereunder. Should any part, term or provision of this agreement be declared illegal or in conflict with any law, rule or regulation, the validity of the remaining portion, terms or provisions shall not be affected thereby.