

**ROCKFORD SPECIALTIES COMPANY, INC. ("Rockford Specialties Co.")**  
**Terms, Conditions of Sale, and Warranty**

1. APPLICABLE TERMS

1.1 These Standard Terms and Conditions govern the sale by ROCKFORD SPECIALTIES Co. (referred herein as "Seller") and you (referred herein as "Buyer") for the purchase of the products, services, machinery, parts, goods and other materials (herein referred to as the "Product" or "Products").

1.2 Buyer's order of Products from Seller constitutes Buyer's acceptance of all terms and conditions contained herein.

1.3 The effective date of the parties' (Buyer & Seller) agreement (the "Effective Date") shall be the date that Seller receives from Buyer Buyer's purchase order or signed quote. On the Effective Date, the purchase order and these Standard Terms and Conditions, together, shall be legally binding and have full force and effect and constitute the agreement of the parties (the "Agreement").

2. EFFECT OF THESE TERMS AND CONDITIONS

2.1 Upon the Effective Date, all former understandings, former proposals and writings are hereby deemed to be superseded by the Agreement. The parties acknowledge and agree that there have been and are no inducements to contract, no representations made for the purpose of inducing a contract, and no considerations other than those expressly set forth in the Agreement.

2.2 The Agreement expresses the complete and final understanding of the parties with respect to the subject matter thereof and shall not be altered, modified or changed in any way.

**YOU ARE HEREBY NOTIFIED OF SELLER'S OBJECTION TO AND REJECTION OF ANY ADDITIONAL OR DIFFERENT TERMS IN YOUR PURCHASE ORDER, OTHER FORMS OR DOCUMENTS. IN CASE OF CONFLICT BETWEEN THE TERMS AND CONDITIONS OF THE AGREEMENT AND THE TERMS AND CONDITIONS OF ANY OTHER DOCUMENT, INCLUDING BUYER'S PURCHASE ORDER, THE TERMS AND CONDITIONS OF THE AGREEMENT SHALL GOVERN.**

3. DURATION; PAYMENT TERMS; TAXES

3.1 Unless otherwise stated in a quote or proposal, the price set forth in any proposal or quote by Seller is valid only for thirty (30) days; and prices are for the quantity specified in the proposal or quote. Prices may be reasonably adjusted by Seller where Seller encounters price changes or circumstances beyond Seller's control.

3.2 All payments made to Seller for Products sold under the Agreement shall be made to the address as set forth on the invoice net thirty (30) days of the invoice date, unless otherwise agreed by Seller in writing. All payments shall be made without setoff or retention by Buyer.

Late payments shall be subject to interest on the unpaid balance at the rate of 1.5% per month. Credit is subject to approval.

3.3 Any taxes or additional costs due to federal, state, or municipal legislation, to which the Agreement is subject, will be paid by Buyer.

3.4 Seller may charge a cancellation charge for orders cancelled by Buyer.

#### 4. WARRANTIES AND REMEDIES

4.1 Products are warranted, to the original Buyer for use, to be free of defects in material and workmanship within such tolerances as may be customary in the industry for a period of one (1) year from the date of shipment. Seller, at its option, will repair or replace, or refund the purchase price of any Products which fail within the warranty period and are found upon examination by Seller to be defective in material or workmanship, or both. This warranty does not cover failures attributable to improper use or maintenance, exceeding rated capacity, alteration, accident, normal wear of moving parts, or damages caused by shipment. Any components not manufactured by Seller are excluded from this warranty. For warranty on such components, refer to applicable manufacturer's warranty. Buyer must give written notice to Seller at the address shown below of any warranty claim within thirty days (30) after failure, and if so instructed, return to Seller the Products to be replaced or repaired, with all transportation charges prepaid by Buyer. Replacement Products will be invoiced to Buyer, with credit issued for Products covered by this warranty and freight thereon. Removal and reinstallation of replacement Products shall be at Buyer's expense.

**4.2 THE WARRANTY OF SELLER SET FORTH IN PARAGRAPH 4.1 IS EXCLUSIVE AND IS GIVEN BY SELLER AND ACCEPTED BY BUYER IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL SUCH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED BY SELLER AND WAIVED BY BUYER.** Seller makes no warranties as to Buyer's ability to re-sell, use, obtain permits or licenses for any intended use of the Product.

4.3 **EXCLUSIVE REMEDIES AND WAIVER:** The Seller's sole liability to the Buyer for breach of the limited warranty contained in paragraph 4.1 and the Buyer's exclusive remedies for any such breach shall be the remedies set forth in paragraph 4.1. The Seller shall have no other liability to the Buyer in connection with the Product, whether claimed in contract, equity, tort (including negligence, gross negligence or strict liability) or otherwise, for or resulting from any Products provided or any errors or omissions. Buyer waives any and all claims relating to spoilage of Buyer supplied materials that may occur as part of Seller's machine set up.

#### 5. DISCLAIMER OF DAMAGES

**NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE SELLER DISCLAIMS AND SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL,**

**INDIRECT, OR CONSEQUENTIAL DAMAGES (OR EQUIVALENTS THEREOF NO MATTER HOW CLAIMED, COMPUTED OR CHARACTERIZED), ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, ITS SUBJECT OR ITS PERFORMANCE OR BREACH OF PERFORMANCE BY THE SELLER, REGARDLESS OF WHETHER ANY SUCH LIABILITY SHALL BE BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE, GROSS NEGLIGENCE AND STRICT LIABILITY), VIOLATION OF LAW OR OTHERWISE AND WHETHER THE CLAIM IS BROUGHT AT LAW OR IN EQUITY.** By way of example of the foregoing disclaimer, but without limiting in any manner its scope or application, the Seller shall not be liable for all or any part of the following losses, costs or expenses, no matter how claimed, computed, or characterized: lost profit or revenue, lost return on investment, cost of capital, lost operating time or production, lost reduced use or value of any facilities (including existing facilities) or any portion of any facilities, expense of replacement products or power, or increased costs of operations or maintenance. The foregoing disclaimer shall be effective without regard to the Seller's performance or failure or delay of performance under any other term or condition of the Agreement. This disclaimer shall be enforceable whether or not any limitation of remedies described herein is deemed to have failed in its essential purpose.

#### 6. DELAYS AND FORCE MAJEURE

Seller shall not be liable for any loss or damage for delay or non-delivery due to acts of civil or military authority, acts of the buyer, or by reason of "Force Majeure." These acts may include, without limitation, any act of God or the public enemy; compliance with any order, decree, or request of any governmental authority; act of declared or undeclared war; public disorder; rebellion; sabotage; fire; flood; explosion; accident; riot; strike; labor difficulty or other concerted act of workmen, whether direct or indirect; declaration of national emergency; mobilization of industry whereby material and labor required for manufacture of the Product are allocated or controlled; or any other cause not within the control of the Seller or which the Seller is unable to avoid by exercise of reasonable care. Any delay resulting from such causes shall extend corresponding shipping dates accordingly.

#### 7. DELIVERY, QUANTITY, TOOLING, SPOILAGE, AND RISK OF LOSS

Seller will make every reasonable effort to meet the delivery period set forth in the Agreement. Delivery period proposed is an estimate based on conditions on the Effective Date of the Agreement. All deliveries are contingent upon the timely performance of Buyer in providing component parts/part samples, prints, and approvals as may be requested by Seller. Delivery shall be F.O.B. Seller's plant, Rockford, Illinois. Buyer is deemed to have agreed to extend delivery date if delay is a result of Buyer's failure to provide, in a timely fashion, component parts/part samples, prints, and approvals as may be requested by Seller. All shipments will be made with a +/- 10% of the quantity quoted and/or specified by Buyer's purchase order. All jigs, fixtures, and tooling are the sole property of Seller.

## 8. SECURITY INTEREST

Until paid in full for the purchase price, Seller retains a security interest in all goods delivered to Buyer, and the products and proceeds thereof, for the purpose of securing payment of any and all indebtedness of Buyer to Seller arising out of the Agreement, together with all costs and expenses in connection therewith, including, but not limited to, expenses of retaking, preserving, repairing, maintaining, preparing for sale, and selling said collateral as well as reasonable attorney's fees, court costs, and other legal expenses.

## 9. ATTORNEYS' FEES

Seller shall be awarded its costs and attorneys' fees incurred in connection with enforcing its rights and remedies as to and against Buyer.

## 10. WAIVER

Waiver by Seller of any breach by Buyer of any of the terms or provisions of the Agreement shall not be deemed to be a waiver of breach on any other occasion of the same terms or provisions, or a waiver of breach of any other term or provision hereof.

## 11. PATENT AND COPYRIGHT INFRINGEMENT INDEMNIFICATION

Seller shall indemnify, defend, and hold Buyer harmless (including attorneys' fees) from any claim that Products delivered hereunder are infringing on any valid copyright or patent, provided that Buyer gives Seller timely written notice of such claim. Seller shall not be responsible for any compromise made in connection with such a claim without its consent. In the event of a final judgment which prohibits Buyer's continued use of any Products by reason of infringement, or if at any time Seller is of the opinion that any Products are likely to become the cause of action for infringement, Seller may, in its sole discretion and expense, obtain the rights to continued use of such Products, replace or modify such Products so that the Products are no longer infringing, or remove the Products involved and refund to Buyer the price thereof as depreciated or amortized over a five (5) year life. In no event shall Seller's liability to Buyer under this section exceed the amount paid by Buyer to Seller for any allegedly infringing Products. Buyer shall indemnify, defend, and hold Seller harmless from any loss, cost, or expense (including attorneys' fees) arising: (1) in connection with any claim that the Products are infringing on a copyright or patent because of the way the Products were modified, altered, or combined with any equipment, device, or software not supplied by Seller or because the Products were used in a manner for which the same was not designed; or because the Products manufactured were done so in accordance with Buyer's specifications (or modified in any way by Buyer); (2) and also from any product liability claims based on alleged defects in Buyer's design or modification.

12. ASSIGNMENT

The Agreement shall be assigned or transferred by Buyer without prior consent of Seller. Subject to the foregoing, the Agreement shall inure to the benefit of and be binding upon the successors, legal representatives, and permitted assigns of the parties thereto.

13. TRADE USES; GOVERNING LAW

13.1 All trade uses and customs of Seller's industry shall apply to this sale and shall constitute part of the agreement between Seller and Buyer to the extent not inconsistent herewith. Except as modified herein, the Illinois Commercial Code shall govern this transaction. Typographical and clerical errors are subject to correction.

13.2 The Agreement, its administration and performance, and all the rights, obligations, liabilities and responsibilities of the parties thereto, shall be governed by and interpreted in accordance with the laws of the State of Illinois, without regard to Illinois conflict of laws principles. Any and all litigation will be brought exclusively in Winnebago County, Illinois, and Buyer consents to the jurisdiction of the federal and state courts located therein, submits to the jurisdiction thereof, and waives the right to change venue. Buyer further consents to the exercise of personal jurisdiction by any such court with respect to any such proceeding.

14. HEADINGS AND NO THIRD PARTY BENEFICIARIES

14.1 Any headings preceding the text of any articles, paragraphs or parts of the Agreement are inserted solely for convenience of reference and are not to be considered a part of the Agreement nor shall they affect in any manner the meaning, interpretation or effect of the Agreement.

14.2 The Seller does not intend to give anyone other than the Buyer the benefit of, and no person or entity shall be a third-party beneficiary of these Standard Terms and Conditions and/or the Agreement.

Rockford Specialties Co.  
5601 Industrial Avenue  
Rockford, Illinois 61111  
815/877-6000  
815/877-7435 FAX