

Terms and Conditions of Sale

The following terms and conditions, including those on the face here of, constitute an Agreement between Buyer and Seller and are referred to as such:

1. **Controlling Provisions:** The terms and conditions appearing on the instrument constitute the sole and entire Agreement of the parties regardless of the timing, for or content of other communications between the parties, if any, all of which are merged herein. If Buyer has previously made an offer to Seller, such offer is hereby rejected and the terms of this Agreement shall be deemed a counteroffer. This offer/counteroffer is expressly limited to the terms hereof. Seller objects to the inclusion of any different or additional terms, and no additional or conflicting provisions contained in any other communications from or with the Buyer will be considered to be part of this Agreement. Receipt of a purchase order or other appropriate communication from the Buyer will be considered an unconditional acceptance of the terms and conditions appearing hereon, without regard to any additional or conflicting terms proposed by Buyer. None of the provisions of this Agreement may be varied, amended or modified except by a written agreement signed by all of the parties.
2. **Prices, Taxes:** Prices stated hereon are exclusive of all taxes. Sales tax will be charged, where applicable, unless a certificate of exemption is on file with Edist.
3. **Payment Terms:** Net amount in full within terms of invoice to those accounts with previously established credit lines. Purchases may be paid for with VISA, Discover or MasterCard. Other purchases are paid for by C.O.D. Past due accounts may have their credit lines suspended. Orders shipped to past due accounts will be shipped C.O.D. All overdue amounts will be added to the C.O.D. amount. Products not listed in Edist's catalog are available on special order. A one third (1/3) deposit may be required on all special ordered items. Special orders cannot be cancelled or returned. A returned check charge to recover bank and handling fees will be assessed each and every time a check is returned for any reason by the financial institution. Payment for sales can be made at the Edist location where the goods were purchased or mailed to Edist, PO Box 52252, Newark, New Jersey 07101-0220.
4. **Late Payment:** Buyer agrees to pay 1-1/2% per month on all balances which are not paid within terms after invoice date or the maximum rate which is legal and enforceable. Buyer will further pay attorneys' or collection company fees of all accounts placed for collection, in addition to all expenses for collection.
5. **Deliveries:** Deliveries will be made within commercially reasonable time unless a specific delivery time is currently undetermined by the manufacturer. All shipments are F.O.B. shipping point, unless otherwise indicated. All shipments are insured at the Buyer's expense.
6. **Limitation on Warranties:** All merchandise sold carries the manufacturer's warranty, which is provided to the customer only. SELLER MAKES NO WARRANTY, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR FITNESS FOR ANY PARTICULAR PURPOSE OF MERCHANTABILITY. No agent, employee or representative of Seller is authorized to bind Seller to any affirmation, representation or warranty, oral or written, unless by separate written instrument designed by Seller, which by its terms states that it is included as part of this agreement.
7. **Claims:** Receipt of goods shall be deemed acceptance of these goods received. All claims for defective goods, for revocation of acceptances, for shortages, for delays or failures in shipment or delivery, or for any other cause shall be deemed waived and released by the Buyer unless made in writing within (7) days after receipt of the goods. All claims must state specifically and in reasonable detail the nature of all objections, and must be accompanied by delivery receipt or photocopy of sales order or packing slip. Any delivery not placed in dispute in a timely manner shall be paid for by the Buyer and all uncontested amounts due shall be paid by the Buyer within terms specified. As a condition to making a claim for missing or damaged goods, customer is responsible for initiating and pursuing UPS or other shipping claims for items claimed not received and/or damaged.
8. **Limitation on Seller's Liability:** Seller's liability will be limited to replacement or repair of defective goods upon receipt of timely notice to Seller per paragraph six herein and receipt of goods and documents at Seller's place of business not later than seven (7) days after buyer's receipt of the goods. In no event will Seller be liable for consequential or special damages or for transportation, installation, removal, adjustment or other expenses or losses which may arise in connection with the use of installation of the goods; late delivery, failure to deliver or from any other cause. Notwithstanding the terms of this Agreement, if there should arise any liability of Seller, such liability shall be limited to an amount equal to one-half of the costs of the goods and services provided hereunder or \$250.00, whichever is less.
9. **Returned Material:** Seller will accept most goods for exchange or credit, only on Seller's discretion within thirty (30) days of the purchase date. In no case are goods to be returned without first obtaining Seller's permission. Only unused material as currently manufactured, in original unopened packaging and which has been paid for by Buyer in accordance with Seller's payment terms will be considered, along with proof of purchase. Material accepted for credit will be subject to a 15% charge for service and handling. Seller will not be obliged to replace any product that has been abused, improperly installed or otherwise misused. Goods must be securely packed in unmarked, original cartons to reach seller without damage. Credit not used within one year will be forfeited. Returns are for credit or exchange only, no refunds will be issued.
10. **Indemnification:** Buyer hereunder agrees to indemnify and hold harmless Seller, Seller's shareholders, directors, officers, employees, representatives and agents (collectively, "Representatives"), all of Seller's affiliates and all Representatives of all Seller's affiliates from and against any and all claims, lawsuits, losses, damages, actions, causes of actions, governmental duties, charges, liens, penalties, costs, expenses or obligations of any kind or nature whatsoever (including reasonable attorneys' fees and costs of defense), arising, relating to, or alleged to arise in any nature whatsoever (including reasonable attorneys' fees and costs of defense), arising, relating to, or alleged to arise or relate to the actions or inactions of Buyer in connection with this Agreement and/or the goods or services to be provided by Seller pursuant to this Agreement. This indemnification obligation shall survive termination, cancellation or completion of this Agreement.
11. **Assignment:** This Agreement may be assigned by Buyer without the express written consent of seller.
12. **Governing Law:** This agreement shall be governed by the laws of the State of New Jersey.
13. **Notice:** Any notice or other written document required or permitted to be given by Buyer or Seller to the other shall be in writing signed by the party giving such notice and sent to the other party at such other Party's address set forth on the front of this Agreement (or such other address designated by the applicable party).
14. **Severability:** If any provision of this Agreement or the application thereof to any person(s) or entity(ies) or circumstance(s) shall be invalid or unenforceable to other person(s) or entity(ies) or circumstance(s) shall not be affected thereby; and each such provision shall be enforced to the greatest extent permitted by law.