



Terms and Conditions of Sale

1. ACCEPTANCE AND CANCELLATION OF ORDER

Each order shall be subject to the terms and conditions stated herein, which supersede all terms and conditions which appear on Purchaser's order form:

- (a) Acceptance of an order by Lumaco is expressly conditioned on Purchaser's consent to all terms and conditions stated herein, which consent shall be deemed given unless Purchaser notifies Lumaco to the contrary in writing within ten days after Lumaco's receipt of acknowledgment or confirmation of an order.
- (b) No modification of the conditions and terms stated herein will be recognized by Lumaco unless specifically agreed to in writing.
- (c) Failure of Lumaco to object to provisions contained in any purchase order or other communication for a Purchaser shall not be construed as an acceptance of such provisions nor as a waiver of the terms and conditions stated herein.
- (d) Any contract or sale and documents shall be governed by and construed according to the laws of the State of New Jersey.
- (e) No order accepted by Lumaco may be altered or modified by the Purchaser unless agreed to in writing signed by Lumaco.
- (f) No order may be cancelled or terminated except upon written consent of Lumaco and payment of Lumaco cancellation charges.

2. DELIVERY

Delivery of goods to a carrier at Lumaco's warehouse constitute delivery to Purchaser, and, regardless of freight payment, all risks of loss or damage in transit shall be borne by Purchaser.

3. TRANSPORTATION COSTS

Unless otherwise specified, all goods sold F.O.B. Lumaco's warehouse. Method and route of shipment shall be at the discretion of Lumaco unless Purchaser shall specify otherwise; any additional expense of the method or route of shipment specified by Purchaser shall be borne entirely by Purchaser.

4. PARTIAL SHIPMENTS AND DELAYS

Lumaco reserves the right to make delivery installments, unless otherwise expressly stipulated in the contract of sale; all such installments shall be separately invoiced and paid when due per invoice without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of obligation to accept remaining deliveries. Lumaco shall not be liable for any damage, including special or consequential damages, as a result of any delay due to any cause beyond Lumaco's control, including without limitation, an act of God, act of the Purchaser, embargo or other governmental act, regulation or request, fire, accident, strike, slow-down, war, riot, delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities. In the event of any such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay.

5. PAYMENT TERMS

The net amount of an invoice shall be due 30 days after the invoice date unless otherwise stated on the invoice. Thereafter, any unpaid balance may be subject to a service charge. If during the period of performance of an order, the financial condition of the Purchaser shall not justify the payment terms specified, Lumaco may require full or partial payment in advance before proceeding with the order. Invoice price shall be that in effect on date of shipment. A discount of 1/2% is offered for invoices paid within 10 days of the invoice date.

6. WARRANTIES

Lumaco warrants its product to be free of defects in workmanship and material under normal use and service and when used for the purposes and under the conditions for which

they are intended, for a period of one year from the date of shipment. Obligation under this warranty is limited, at Lumaco's option, to adjust, repair or replace, F.O.B. point of manufacture, the defective product. Purchaser must immediately notify Lumaco in writing of the claimed defect. Lumaco shall have the right to inspect said product and Purchaser shall, if requested, return the defective product to Lumaco with transportation prepaid. Purchaser shall assume all responsibility and expense for removal and reinstallation and freight charges in connection with the forgoing remedy. Lumaco shall not be liable for indirect, special, incidental or consequential damage or penalties and does not assume any liability of Purchaser to others, or to anyone for injury to persons or property. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED AND IMPLIED, INCLUDING THE WARRANTY OF MERCHANTABILITY. Any claims for shortages or damages must be in writing within ten days after receipt of shipment. Buyer shall note loss or damage on truck shipments by providing a delivery receipt signed by the driver.

7. RETURNS

No product may be returned to Lumaco without prior express written approval, and freight must be prepaid by Purchaser to Lumaco on all returns. Returned products must be securely packaged to reach Lumaco without damage and must be clearly marked with the name of the shipper. Credit for returned merchandise, if accepted, will be issued by Lumaco on current merchandise in saleable condition based upon the purchase price or current selling price, whichever is lower. All returns of non-current merchandise are subject to repair (parts and labor) charges, if repaired or Lumaco will issue credit only for current components salvaged. All returns are subject to Seller's 15% restocking charge.

8. CLAIMS

Claims for loss or damage to goods in transit should be made to carrier promptly and not to Lumaco. Claims for shortages or other errors, exclusive of transit shortages or damages, must be made in writing to Lumaco within ten (10) days after delivery. Failure to give such notice shall constitute acceptance and waiver of all such claims by Purchaser.

9. TAXES AND OTHER CHARGES

Any manufacturer's tax, retainer's occupation tax, use tax, excise tax duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever, imposed by any government authority, on or measured by any transaction between Lumaco and the Purchaser shall be paid by the Purchaser in addition to the prices quoted or invoiced unless Lumaco specifically states that such taxes or charges are included in those prices. In the event Lumaco shall be required to pay any such tax, fee or charge, the Purchaser shall reimburse Lumaco therefore; or in lieu of such payment, the Purchaser shall provide Lumaco at the time the order is submitted with an exemption certification or other document acceptable to the authority imposing the same.

10. PATENTS, ETC.

Lumaco agrees to defend and indemnify Purchaser against any claim or suit brought against Purchaser based on alleged infringement of any United States patent by products sold by Lumaco to Purchaser hereunder provided that Purchaser immediately notifies Lumaco of any such claims or suit and gives to Lumaco full control over the defense of such suit and over any negotiations for settlement. As to any product manufactured or labeled by Lumaco in accordance with design or instructions furnished by Purchaser, Purchaser shall defend and indemnify Lumaco against any claim made against Lumaco for any patent, trademark or copy right infringement.