

E.WAGENER GmbH INVOICE TERMS AND CONDITIONS OF SALE

All sales and deliveries of goods, materials, or supplies (collectively, the “Goods”) by E.Wagener GmbH. (“E.Wagener”) to Customer (as defined below) are governed by, subject to, and expressly conditional on Customer’s acceptance of the below terms and conditions (these “Terms and Conditions”), which are made a part of any and every agreement of any kind, whether written or oral, between E.Wagener and the entity or person identified in the “Bill To” section of the Invoice (“Customer”) for the sale of E.Wagener Goods. Customer’s submission of a purchase order (or similar intent to purchase Goods) to E.Wagener or acceptance of delivery of any E.Wagener Goods is conclusive evidence of Customer’s acceptance of and agreement to be bound by these Terms and Conditions. No qualification, variation of, addition to, or deletion from these Terms and Conditions will be valid or effective unless expressly agreed in writing and signed by a duly authorized representative of E.Wagener. Any relaxation or concession that may be granted by E.Wagener will not, in any way, invalidate, impair, or compromise the effect of these Terms and Conditions, and will in no way affect or prejudice E.Wagener’s rights hereunder. In the event of a conflict between these Terms and Conditions and any other agreement between E.Wagener and Customer, these Terms and Conditions will govern.

- 1. Prices.** Prices specified and any revisions thereof are subject to revision by E.Wagener at any time without notice. If E.Wagener is prevented by law, regulation, or governmental action from revising or continuing any price in effect hereunder, E.Wagener may, upon written notice, terminate further shipments of the Goods so affected.
- 2. Delivery and Inspection.** All shipping dates are approximate, not a guaranty of a particular dates of delivery. Delivery shall be F.O.B. origin. Customer shall inspect the Goods delivered to it by E.Wagener and notify E.Wagener of discrepancies or damage or defect to the Goods within **5 days** of delivery. Following timely notice to E.Wagener, Customer may then reject any Goods which fail to meet the specifications provided in the INVOICE (the “**Specifications**”). Customer’s failure to provide E.Wagener of timely notice as specified in this Paragraph 2 shall be deemed to be acceptance of the Goods by Customer and a waiver of any claim or defense based on the quality of the Goods. Rejection of Goods that do not meet the Specifications will not give rise to any claim by Customer whatsoever. E.Wagener’s sole obligation with respect to any Goods sold to Customer which do not meet the Specifications will be strictly and exclusively limited to replacement of the nonconforming or damaged Goods.
- 3. Title and Risk of Loss.** Unless otherwise expressly stated in another agreement between E.Wagener and Customer, title to the Goods and risk of loss will pass to Customer when the Goods sold are placed in the hands of the carrier, and Customer hereby assumes all responsibility for shortages, losses, delays, or damages in transit thereafter.
- 4. Payment.** Customer shall pay all amounts due to E.Wagener in full, without set-off or deduction, within **14 days** from the date specified in the Invoice. E.Wagener specifically reserves the right to modify the payment terms provided herein if, in E.Wagener’s opinion, the payment record or financial condition of Customer so warrants. Late payments shall be subject to a charge of 1 ½ % interest per month, compounded daily, on the unpaid balance, which will accrue beginning from the due date and continue to accrue until the entire balance and accrued interest are paid in full. E.Wagener will retain (and Customer grants to E.Wagener by submitting a purchase order) a security interest in the Goods to secure payment in full and compliance with these Terms and Conditions. Customer agrees to execute any additional documents necessary to perfect such security interest. Any potential invoice discrepancies are to be communicated to E.Wagener in writing and resolved after payment of the full invoice amount.
- 5. Taxes.** Unless shown as a separate line item on the Invoice, prices are exclusive of any amount for Federal, State, and/or local excise, sales, use, property, retailer’s, occupation, or any other assessment in the nature of taxes, levies, or duties however designated, imposed upon the Goods or any services sold by E.Wagener to Customer, whether for the production, storage, sale, transportation, use or otherwise. To the extent that E.Wagener is required to pay or bear the burden of any such taxes, levies, or duties, E.Wagener shall bill one hundred percent of such tax or duty to Customer, and Customer shall promptly pay to E.Wagener such amount within 14 days of being invoiced.
- 6. Cancellations.** Customer understands and agrees that orders placed may only be cancelled within 3 days of date Customer placed the order. The Goods may not be returned to E.Wagener for a credit, refund, or otherwise, unless the Goods are defective or do not meet the Specifications and Customer has complied with its notice requirement pursuant to **Paragraph 2**.
- 7. Excusable Delays.** Time of delivery is subject to a corresponding promise of delivery by E.Wagener’s suppliers and E.Wagener shall not be responsible in case of delays caused by E.Wagener’s suppliers’ failure to timely deliver the Goods to E.Wagener. In addition, E.Wagener shall not be liable for non-delivery or untimely delivery to the extent such non-delivery or untimely delivery is caused by or in any manner arises from a fire, flood, accident, riot, war, governmental interference or embargoes, strikes or shortage of labor, or other difficulties similar in nature that are out of E.Wagener’s control. Delivery on Customer’s order shall be considered suspended until such time as any of the causes described in this **Paragraph 7** have been fully eliminated. E.Wagener agrees to make, and Customer accept, deliveries whenever such causes have been fully eliminated.
- 8. LIMITED WARRANTY.** E.WAGENER ONLY WARRANTS THAT THE GOODS SOLD BY IT TO CUSTOMER WILL MEET THE DESCRIPTION AND THE SPECIFICATIONS, OR, IF NO SPECIFICATIONS ARE SET FORTH, THAT THE GOODS SHALL MEET E.WAGENER’S STANDARD SPECIFICATIONS. OTHER THAN THE FOREGOING, E.WAGENER MAKES NO GUARANTY OR WARRANTY, EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES AND GUARANTEES INCLUDING, BUT NOT LIMITED TO, THOSE OF INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT, MERCHANTABILITY OR SUITABILITY OF THE GOODS FOR ANY SPECIFIC PURPOSE, EVEN IF THAT PURPOSE IS KNOWN TO E.WAGENER.
- 9. LIMITATION OF LIABILITY.** E.WAGENER’S TOTAL LIABILITY, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, IS LIMITED

TO THE PRICE PAID BY CUSTOMER TO E.WAGENER FOR THE PARTICULAR GOODS THAT FORM THE BASIS OF CUSTOMER'S CLAIM. CUSTOMER'S SOLE REMEDY WITH RESPECT TO NONCONFORMING OR DAMAGED GOODS IS TO REQUEST – AS PROVIDED IN PARAGRAPH 2 – THAT E.WAGENER REPLACE THE GOOD(S) THAT ARE NOT AS WARRANTED. IN NO EVENT WILL E.WAGENER BE LIABLE FOR ANY LOSS OF USE, LOSS OF TIME, INCONVENIENCE, COMMERCIAL LOSS, LOST PROFITS OR SAVINGS, PUNITIVE, SPECIAL, EXEMPLARY, OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES REGARDLESS OF THE THEORY OF LIABILITY CLAIMED OR ALLEGED.

10. PRODUCT HAZARDS:

(a) **Sophisticated User.** CUSTOMER ACKNOWLEDGES THAT IT IS FAMILIAR WITH THE GOODS AND HAS BEEN ADEQUATELY WARNED BY E.WAGENER OF THE RISKS ASSOCIATED WITH HANDLING, TRANSPORTING, USING, STORING, AND DISPOSING OF THE GOODS. CUSTOMER FURTHER ACKNOWLEDGES ITS OWN SEPARATE AND INDEPENDENT KNOWLEDGE OF SUCH RISKS, WHICH ARE KNOWN IN CUSTOMER'S INDUSTRY. Customer will maintain compliance with all appropriate safe handling and use procedures, and all safety and health-related governmental requirements concerning the purchased Goods, and will take such steps as are reasonable and practicable to inform its employees, agents, contractors, customers and other third parties of proper use, storage, and disposal. Customer will not deliver or consign commercial or sample quantities of the Goods to any party whom Customer reasonably believes will handle, transport, use, store or dispose of said Goods in a dangerous manner or contrary to law or the advice of E.Wagener.

(b) **Customer's Liability.** CUSTOMER WILL INDEMNIFY E.WAGENER AND/OR ANY OF ITS AFFILIATES, AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AND INSURERS FOR LIABILITY AND COSTS RELATING TO INCIDENTS WHICH OCCUR AFTER CUSTOMER, OR CUSTOMER'S AGENT OR CARRIER, TAKES PHYSICAL DELIVERY OF THE GOODS SOLD HEREUNDER OR HAS CUSTODY OF THE GOODS, WHERE SUCH LIABILITY AND COSTS ARISE FROM DAMAGES, PERSONAL INJURY, OR DEATH OF CUSTOMER, OR CUSTOMER'S AGENT'S, OR CARRIER'S EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, CUSTOMERS OR EXCHANGE PARTNERS BECAUSE OF EXPOSURE TO PRODUCT OR EXPLOSION OR COMBUSTION OF PRODUCT, PROVIDED THAT THIS INDEMNITY DOES NOT APPLY TO THE EXTENT THAT THE PRIMARY AND PREDOMINANT CAUSE OF SUCH DAMAGES, PERSONAL INJURY, OR DEATH IS THE GOOD'S NONCONFORMITY WITH THE WARRANTIES HEREUNDER AT THE TIME OF DELIVERY OR E.WAGENER'S NEGLIGENCE OR WILLFUL MISCONDUCT.

(c) **Scope of Liability.** AS USED IN THESE TERMS AND CONDITIONS, TO "INDEMNIFY" MEANS TO DEFEND, COMPENSATE, AND REIMBURSE ALL OUT OF POCKET COSTS AND EXPENSES WITHIN ONE HUNDRED DAYS, AND FULLY HOLD HARMLESS FROM AND AGAINST ALL DAMAGES (REGARDLESS OF WHETHER OR NOT SUCH DAMAGES ARE RELATED TO ANY THIRD PARTY), INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, COURT COSTS, AND OTHER COSTS OF SUIT, FOR CLAIMS, DEMANDS, SUITS, OR JUDGMENTS BASED ON ANY PRODUCT RELATED INCIDENT CAUSING PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH. "DAMAGES" INCLUDES ANY LOSS, DAMAGE, DECLINE IN VALUE, LOST OPPORTUNITY, LIABILITY, CLAIM, DEMAND, ASSESSMENT, SETTLEMENT, JUDGMENT, AWARD, FINE, PENTALTY, TAX, CHARGE, OR EXPENSE.

- 11. Technical Assistance.** E.Wagener's warranty shall not be enlarged, and no obligation or liability will arise out of E.Wagener's rendering of technical advice, facilities, or service in connection with Customer's purchase of Goods from E.Wagener.
- 12. Dispute Resolution.** In the spirit of continued cooperation, the parties intend to and hereby establish the following dispute resolution procedure to be utilized in the unlikely event any controversy should arise out of or concerning E.Wagener's sale of Goods to Customer. It is the intent of the parties that any dispute be resolved informally and promptly through good faith negotiation between Customer and E.Wagener. Either party may initiate negotiation proceedings by written notice to the other party setting forth the particulars of the dispute. If these proceedings are not productive of a resolution, then the parties agree to submit the dispute to mediation with a mutually acceptable independent mediator located in Washington, Pennsylvania. In the event mediation does not resolve the dispute between the parties, the parties agree to submit to their dispute to a court in Washington County, Pennsylvania (municipal, state, or federal) and each Party hereby agrees to submit to the personal and exclusive jurisdiction of such court and hereby waives any objection that Customer or E.Wagener may have to the laying of venue of any such proceeding and any claim or defense of inconvenient forum.
- 13. License Disclaimer.** Nothing contained in these Terms and Conditions will be deemed to grant either directly or indirectly or by implication, estoppel, or otherwise, any license under any patents, copyrights, trademarks, or trade secrets of E.Wagener to Customer.
- 14. Confidential Information.** All information provided by E.Wagener hereunder, including, but not limited to, these Terms and Conditions must be held in strict confidence by Customer. This confidentiality obligation will survive the termination of the business relationship between E.Wagener and Customer.
- 15. Waiver.** The failure of either party to insist, in any one or more instances, upon the performance of any provision of these Terms and Conditions will not be construed as a waiver or relinquishment of the future performance of any such provision(s) or the future exercise of such right. The obligation of the other party with respect to such future performance shall continue in full force and effect.
- 16. Defaults.** Customer's failure to pay any invoice in full when due may result in such action as commencement of proceedings for collection, revocation of credit, stoppage of shipment, delay or cessation of future deliveries, repossession of unpaid delivered Goods, and termination of one or more sales agreements. Such remedies are without prejudice to any other remedies that E.Wagener may have. In the event E.Wagener initiates collection proceedings or a lawsuit to collect past due amounts from Customer or enforce E.Wagener's security interests, Customer agrees that it shall pay all of E.Wagener's costs, including court costs and attorneys' fees.
- 17. Notices.** Any notices required under these Terms and Conditions will be deemed properly given when sent via facsimile transmission or certified mail, return receipt requested, to E.Wagener or Customer, at the address provided for each party on the Invoice or at their respective principal place of business. Notice under this Paragraph 16 will be deemed to have been given on the date posted or faxed.

- 18. Compliance with Laws.** Customer agrees to comply fully with all applicable laws, ordinances and regulations, from whatever authority they may emanate, unless in conflict with U.S. federal, state or local laws, rules, or regulations, including, but not limited to, anti-bribery, export control, economic sanctions laws, OFAC, EPA, OSHA, and all hazardous materials transportation and hazardous communication standards for the safe labeling, handling and use of the Goods. E.Wagener may terminate any sales agreement without any liability if, in E.Wagener's sole, reasonable determination, E.Wagener believes that it is necessary to do so in order to comply with its obligations under applicable laws, rules, or regulations. Should any provision hereof, or any procedure or action imposed by any provision hereof on either party, become invalid or illegal in whole or in part, then, if possible, such provision either will be deemed amended to be consistent with the intent of the parties, as expressed in these Terms and Conditions, or that provision will fail by itself, in either case without invalidating any of the remaining provisions not otherwise invalid or illegal, unless same would materially affect the rights of the parties hereunder, in which event either party may terminate any sales agreement(s) in effect, by written notice to the other party.
- 19. Governing Law.** These Terms and Conditions shall be governed by and construed in accordance with the laws of Pennsylvania without regard to conflict-of-laws principles.
- 20. Severability.** The invalidity or unenforceability of any particular provision of these Terms and Conditions will not affect the other provisions hereof, and these Terms and Conditions will be construed in all respects as if such invalid or unenforceable provision was omitted.
- 21. No Third-Party Beneficiaries.** These Terms and Conditions are intended solely for the benefit of the parties hereto and their permitted assigns and do not, and will not, impart rights enforceable by any other person or entity.
- 22. Headings.** The headings contained in these Terms and Conditions are for reference and convenience only and will not affect in any way the meaning or interpretation of these Terms and Conditions.