

Supplier's Conditions of Sale

Updated November 1, 2019

1. Inspection and Rejection of Nonconforming Goods.

(a) Distributor shall inspect the Goods within 5 days of receipt (**Inspection Period**). Distributor will be deemed to have accepted the Goods unless it notifies Supplier in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Supplier. "**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Distributor's purchase order; or (ii) product's label or packaging incorrectly identifies its contents.

(b) If Distributor timely notifies Supplier of any Nonconforming Goods, Supplier shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Distributor in connection therewith. Distributor shall ship, at its expense and risk of loss, the Nonconforming Goods to Supplier's facility located at the address indicated in the Distribution Agreement, or such as address as provided by the Supplier. If Supplier exercises its option to replace Nonconforming Goods, Supplier shall, after receiving Distributor's shipment of Nonconforming Goods, ship to Distributor, at Distributor's expense and risk of loss, the replaced Goods.

(c) Distributor acknowledges and agrees that the remedies set forth in Section 1(b) are Distributor's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under Section 1(b), all sales of Goods to Distributor are made on a one-way basis and Distributor has no right to return Goods purchased under this Agreement to Supplier.

2. Warranty.

(a) SUPPLIER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

3. Limitation of Liability.

(a) IN NO EVENT SHALL SUPPLIER BE LIABLE TO DISTRIBUTOR OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

IN NO EVENT SHALL SUPPLIER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SUPPLIER FOR THE GOODS SOLD HEREUNDER.