

CONDITIONS OF SALE

Buyer confirms that the following terms and conditions apply to the sale of the merchandise listed on the sales order (delivery ticket).

1. Title to the above merchandise shall remain in the Seller until invoice is paid in full. In the event that this invoice is not fully paid within 30 days from the date of delivery of the above-listed merchandise, the Seller has the right to and may enter any premises where the merchandise may then be and re-take same either with or without legal process but without breach of the peace. Notwithstanding the fact that title to the merchandise remains in the Seller until this invoice is fully paid. Risk of loss or damage to the merchandise herein passes to the buyer at the time that delivery of the said merchandise is made to a carrier at manufacturer's shipping point or is placed upon the Seller's trucks for delivery to customer.
2. DELAYS: The Seller shall be excused for any delay in performance due to acts of God, war, riots, embargoes, act of civil or military authorities, fire floods, accidents, import restrictions, mill conditions, failure to meet factory production schedules, strikes, differences with workman, delays in transportation, shortage of cars, fuel, labor or materials, or any circumstances or cause beyond the control of the Seller in reasonable conduct of its business.
3. All claims for damages, errors, or shortage in the merchandise delivered shall be sent to the Seller in writing within 48 hours of the delivery of the merchandise. A failure to send such claim within said period shall constitute an acceptance of the merchandise as complying with any and all terms and conditions covering the sale of the same.
4. No merchandise shall be returned without authorization. There will be a restocking charge for all returned merchandise.
5. With respect to merchandise not manufactured by the Seller, the warranty obligations of the Seller shall in all respects conform to and be limited to the warranty extended to the Seller, Rosen Materials, by its supplier. In absolutely no circumstances shall Seller's liability ever exceed the cost of the goods sold. It is specifically understood and agreed to by the parties that the Seller, Rosen Materials, shall be liable for no consequential or incidental damages, or any damages caused by any defect in the product. As stated above, Rosen Materials' sole liability shall be to repair or replace at its option, defective materials.
6. Buyer's obligation to pay for specialty orders becomes binding upon placing of the order.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHERS EXPRESS AND IMPLIED WARRANTIES WHATSOEVER INCLUDING, BUT NOT LIMITED TO: IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE (except warranties of title).

The Seller shall not be subject to any other obligations or liabilities whatsoever, with respect to merchandise manufactured by the Seller or its Suppliers or services rendered by the Seller.

Indemnification and Waiver of Liability

The representative of owner, subcontractor or purchaser recognizes that it is necessary for Rosen Materials to drive heavy equipment across certain property to deliver merchandise, and hereby agrees to indemnify and hold harmless Rosen Materials, its agents or employees from any claims, demands, costs (including attorney's fees), expenses, liability, cause of action or suits arising from any damage to said property, even if it is alleged or in fact damage caused by Rosen Materials' negligence or fault.

Determination that any of these terms are illegal or invalid shall not affect the validity or enforceability of the remaining terms hereof.