

PACIFIC SOURCE

SALES TERMS & CONDITIONS

1. **COMPLETE TERMS.** Sales by Pacific Source are governed by these terms and conditions, unless the parties have entered into a mutually executed written agreement stating applicable terms and conditions. This is an offer conditioned on Buyer's acceptance of all, and only, these terms. Pacific Source objects to any different or additional terms. This is the final and complete expression of all terms and conditions of the agreement. Any representations, promises, warranties, or statements that are not contained here are void. These terms and conditions can be modified, waived, or amended only by writing signed by both Buyer and Pacific Source.
2. **TERMS OF PAYMENT.** Payment is due according to the terms set forth on the invoice, unless the parties agree to other terms. If Buyer fails to pay any sum owed hereunder when due, interest shall accrue to Pacific Source's credit on such sum at the rate of 1-1/2% per month or the highest rate allowed by law, whichever is lower. If Pacific Source, in its sole discretion, finds it necessary to employ an attorney to collect any past due sum owed hereunder, it may collect, in addition to any other sum owed hereunder, a reasonable attorney's fee.
3. **FINANCIAL RESPONSIBILITY.** Any credit terms offered by Pacific Source are available only for so long as Buyer complies with all of its obligations under these terms and conditions, including, without limitation, the provisions requiring timely payment of invoices within stated terms. If credit terms are no longer available, Buyer shall pay cash in advance for all purchases. If Pacific Source shall have any doubt at any time as to Buyer's financial responsibility, Pacific Source, at its option, either may (a) decline to make further shipments except upon receipt of cash in advance or upon giving of other security satisfactory to Pacific Source, or (b) terminate this sale. Nothing in this paragraph is intended to affect the obligation of Buyer to accept and pay for the goods.
4. **NO DEDUCTION.** Buyer shall not be entitled to deduct from the price invoiced to it by Pacific Source, the amount of any claim asserted by Buyer against Pacific Source, unless such claim shall have been allowed, in writing, by Pacific Source. The provisions of the preceding sentence are of the essence of this sale.
5. **LIMITED WARRANTY.** Goods are warranted to comply with the warranty and specifications of the original manufacturer or producer of the goods. Should any product sold hereunder be found not to meet the foregoing warranty, Pacific Source will take such action as is specified in the warranty of the original manufacturer or producer, or, at Pacific Source's election, make a fair allowance therefore. Written notice of any claim under this warranty must be given to Pacific Source within the time specified in the warranty of the original manufacturer or producer, and Buyer must afford Pacific Source a reasonable opportunity to inspect the goods in unaltered condition and evaluate the claims in accordance with procedures specified in the original manufacturer's or producer's warranty.

NO WARRANTIES EXTEND BEYOND THE FOREGOING WHICH ARE EXTENDED IN LIEU OF AND TO EXCLUSION OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND PACIFIC SOURCE'S SOLE RESPONSIBILITY THEREUNDER IS AS STATED. PACIFIC SOURCE SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES, OR FOR ANY AMOUNT IN EXCESS OF THE PRICE FOR THE GOODS INVOLVED, UNDER THE FOREGOING WARRANTY OR ANY OTHER PART OF THIS AGREEMENT. PACIFIC SOURCE EXPRESSLY DISCLAIMS ANY IMPLIED OR EXPRESS WARRANTY THAT A PRODUCT WILL NOT SUPPORT MOLD.

6. **REMEDIES.** Buyer's remedies shall be limited to replacement by Pacific Source of the goods involved or, at Pacific Source's option, return by Pacific Source to Buyer, of the purchase price of the goods involved in such breach. Under no circumstances shall Pacific Source be liable to Buyer or any other person for any incidental, consequential, or indirect damages which are suffered by Buyer or any other person whether arising in tort, contract, or otherwise. ANY LEGAL ACTION AGAINST PACIFIC SOURCE FOR BREACH OF THESE TERMS OF SALE, INCLUDING ANY WARRANTIES, MUST BE INSTITUTED WITHIN ONE YEAR AFTER DELIVERY OF GOODS.
7. **DELIVERY.** Pacific Source reserves the right to route all shipments and may assist Buyer in processing claims against carriers, without incurring liability therefore. Any increase in delivery costs resulting from Buyer's instructions to the carrier and any extra costs of utilizing substitute methods of delivery, when the intended type of carrier or loading or unloading facilities become unavailable, shall be for Buyer's account.
8. **DELAYS.** In the event Pacific Source is unable to ship the ordered goods because of fire, flood, windstorm, or other act of God, labor or civil disturbance, shortage of raw materials, failure of timely delivery by Pacific Source's suppliers, energy or transportation shortages, or any other cause whether or not similar to the causes listed above, beyond Pacific Source's reasonable control, Pacific Source reserves the right to cancel the affected order without any liability to Buyer whatsoever. In no event shall Pacific Source be obligated to purchase material from others to enable Pacific Source to deliver goods to Buyer hereunder.
9. **DEFAULT.** Buyer will be in default if (a) Buyer fails to pay to Pacific Source any amount when due under this agreement, (b) Buyer fails for a period of five days after receiving written notice from Pacific Source to fulfill or perform any provisions of this agreement (other than the prior provision relating to due date of payments), (c) Buyer becomes insolvent or bankrupt, or a petition therefore is filed voluntarily or involuntarily and not dismissed within 30 days from filing, or (d) Buyer makes a general assignment for the benefit of its creditors, or a receiver is appointed, or a substantial part of Buyer's assets are attached or seized under legal process and not released within 30 days thereafter.

Upon Buyer's default, Pacific Source may, at its option, without prejudice to any of its other rights and remedies, and without demand for payments past due, (a) make shipments subject to receipt of cash in advance, (b) terminate this agreement and declare immediately due and payable the obligations of Buyer for products previously shipped, notwithstanding any other provision in these terms and conditions, (c) demand reclamation, and/or (d) suspend any further deliveries until the default is corrected, without releasing Buyer from its obligations under this agreement. In any event, Buyer shall remain liable for all loss and damage sustained by Pacific Source because of Buyer's default, including, but not limited to collection fees, reasonable attorneys fees, and interest at the lower of 1-1/2% per month or the highest amount allowed by applicable law.

10. **TAXES.** All sales, excise, or other forms of taxes levied against this transaction shall be paid by Buyer over and above all other sums Buyer may be or may become obligated to pay hereunder.
11. **MUTUALITY.** All debts and obligations of Buyer and Pacific Source to each other are mutual and subject to setoff. For purposes of this paragraph, "Buyer" and "Pacific Source" shall be deemed to include each party's respective subsidiaries and affiliates which directly or indirectly control or are controlled by the party through 100% equity ownership.
12. **GOVERNING LAW.** Any transaction subject to these terms and conditions shall be governed by the laws of the State of Hawaii.