

DEMCO LIBRARY SERVICES, LLC -- TERMS AND CONDITIONS OF SALE

Please read these terms and conditions carefully. All orders for goods and any related services ("Products") by any buyer ("you") from DEMCO Library Services, LLC ("DLS") are governed by these terms and conditions.

- 1. Exclusive Terms.** DLS AGREES TO SELL ITS PRODUCTS ONLY ON THESE TERMS AND CONDITIONS. DLS EXPRESSLY OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS IN YOUR PURCHASE ORDER OR SIMILAR DOCUMENT. No action by DLS shall be construed as an acceptance of any additional or different terms. You shall be deemed to have accepted these terms and conditions by any written indication of acceptance, by submitting an order in response to a quotation, by any action affirming your order without objection to these terms and conditions, by accepting any whole or partial shipment of Products, or by making any whole or partial payment to DLS.
- 2. Price.** Unless DLS agrees otherwise in writing, you agree to pay DLS's price in effect at the time an order is accepted by DLS for all products and services ordered. Prices do not include freight, insurance, installation, export fees, storage, duties, or sales, use, or excise taxes, any special processing, handling, packaging, or other special treatment, or any other charges, fees, or taxes, all of which are your responsibility; provided, however, that the price shall include ocean freight, duties, and other costs incurred, if any, to bring the Products to the United States. DLS reserves the right, by giving you notice at any time before delivery, to increase the price of the Products to reflect any increase in the manufacturing or production cost to DLS, any change to delivery dates, quantities or specifications for the Products requested by you, or any delay caused by your instructions or your failure to give DLS adequate information or instructions.
- 3. Cancellation of Orders.** You may not cancel an order, in whole or in part, without the written consent of DLS. No cancellation will be accepted by DLS except on terms that will fully indemnify and reimburse DLS against loss, including recovery of all costs incurred by DLS, and including indirect and overhead charges and profit.
- 4. Delivery.** You acknowledge that shipment dates and delivery dates are estimates only. DLS agrees to use reasonable efforts to meet the estimated shipping date subject to your prompt provision of all necessary specifications and information; however, DLS will not be held responsible for any failure to meet an estimated date. If you request a delay in shipment, DLS shall have the right to (i) bill you for the Products at the initial requested delivery date, and (ii) bill you for any storage charges incurred. In the case of delivery of Products by installments, you agree that you will not treat the delivery of faulty Products in any one installment or the late delivery or non-delivery of any one installment as a repudiation of the whole contract. Unless special shipping instructions are received and accepted by DLS before the shipment date, DLS shall, in its sole judgment, determine the means and routing of shipment, or store the Products at your expense until you provide shipping instructions.
- 5. Risk and Title to Products.** Unless otherwise expressly agreed by DLS, all shipments are F.O.B. point of shipment. "Point of shipment" shall be, as applicable: DLS's dock; for drop shipments, manufacturer's or distributor's dock; for international Products, the United States point of entry. DLS will select the origin of all shipments, and all delivery destinations will be subject to DLS's approval. Title to and risk of loss for Products will pass at the F.O.B. point.
- 6. Exclusion of Warranties.** You acknowledge that DLS is not the manufacturer of the Products, and therefore (a) DLS MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO THE PRODUCTS, and (b) DLS EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. All Products are warranted only to the extent of the manufacturer's warranties, which DLS will provide to you at your request.
- 7. Limitation of Remedies and Damages.** DLS's liability and your remedies under this Agreement will be limited solely to replacement or credit, at DLS's option, with respect to Products for which DLS has received, within thirty (30) days after your receipt of the Products, evidence satisfactory to DLS of defective or incorrect Products. DLS' LIABILITY WILL IN NO EVENT BE GREATER IN AMOUNT THAN THE PURCHASE PRICE OF THE PRODUCTS. DLS WILL NOT BE LIABLE, UNDER ANY CIRCUMSTANCE, FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LABOR COSTS OR LOST PROFITS RESULTING FROM THE USE OF OR INABILITY TO USE THE PRODUCTS OR FROM THE PRODUCTS BEING INCORPORATED IN OR BECOMING A COMPONENT OF ANY OTHER ARTICLE. NEITHER PARTY WILL HAVE ANY NEGLIGENCE OR OTHER TORT LIABILITY TO THE OTHER, OR TO ANY THIRD PARTY, ARISING FROM ANY BREACH OF THIS AGREEMENT.
- 8. Variations.** Any minor shortages or defects that do not materially affect the use for which the Products are intended will not affect the terms of payment. Products, specifications, and colors may differ slightly from those illustrated in DLS's literature and samples. Any typographical or clerical omission in any sales literature, price list, quotation, acceptance of offer, invoice or other document or other information issued by DLS shall be subject to correction without any liability on the part of DLS.

9. Claims. DLS's responsibility for shipment shall cease upon delivery to the carrier. Any claims for damages or loss occurring in shipment shall be made by you directly to the carrier. All other claims for damages, defects, loss, shortages, or incorrect Products must be made within fourteen (14) days after receipt of the Products, unless otherwise agreed by the parties in writing. YOUR FAILURE TO MAKE ANY CLAIM WITHIN THE SPECIFIED TIME PERIOD WILL RESULT IN THE UNCONDITIONAL WAIVER OF THAT CLAIM. DLS reserves the right to accept or reject any claim in whole or in part. DLS shall not be responsible for any defects caused by your willful or negligent acts, incorrect storage or installation of the Products, or normal wear and tear. Any claim based on a manufacturer's warranty shall be made within the period prescribed by the warranty.

10. Credit Report and Payment. You hereby give DLS permission to make all reasonable inquiries into your credit history. Following such reviews, DLS will notify you of the payment terms for your orders, which will be one of the following:

(a) *Net 30 Days.* All amounts for the Products ordered are due within 30 days of date of DLS's invoice for the Products.

(b) *25% Down, Net 30 Days.* You must pay 25% of the order amount upon notice from DLS of the terms of payment, and the remaining balance is due within 30 days of date of DLS's invoice for the Products.

(c) *50% Down, Net 30 Days.* You must pay 50% of the order amount upon notice from DLS of the terms of payment, and the remaining balance is due within 30 days of date of DLS's invoice for the Products.

(d) *100% Down or Payment Bond.* The full price of all orders must be paid upon notice from DLS of the terms of payment. Alternatively, you may provide a payment bond or other security acceptable to DLS.

If you are required to make a down payment under the preceding payment terms, DLS may not process your order for Products under this contract until such down payment is received by DLS. If payment is not made in full by the due date, DLS may charge interest at a rate of up to 1 ½% per month (18% per year compounded monthly) on the amount outstanding until it is paid in full. You agree that you will not withhold payment of any amount due because of any other claims or set-off you may have against DLS.

11. Collection and Other Fees. You agree to pay DLS all costs, including reasonable attorneys fees, incurred by DLS in collecting amounts you owe to DLS or in otherwise enforcing, asserting, or defending these terms and conditions.

12. Indemnity. If the Products are to be manufactured or any process is to be applied to the Products in accordance with a specification submitted by you, you hereby indemnify DLS against all loss, damages, costs and expenses awarded against or incurred by DLS in connection with or paid or agreed to be paid by DLS in settlement of any claim whatsoever including, but not limited to, infringement of any patent, copyright, design, trademark or other intellectual property rights of any other person that results from DLS's use of your specification.

13. No Installation. These terms and conditions do not govern the installation of any Products purchased from DLS. Please refer to your installation agreement for the terms relating to installation.

14. Force Majeure. DLS shall not be responsible for any failure or delay in the performance of any of its obligations due to causes beyond its control, including, without limitation, fire, storm, flood, freeze, accident, customs or other acts of government, labor disputes, failure or delays of energy, wars, acts of terrorism, riots, public disorders and acts of God.

15. Disputes. Any disputes relating to these terms and conditions shall be decided in accordance with the laws of the State of Wisconsin without reference to conflicts of laws principles. Exclusive jurisdiction and venue of any lawsuit relating to this contract shall lie in the state and federal courts of Dane County, Wisconsin.

16. Miscellaneous. The invalidity or unenforceability of any of these Terms and Conditions shall not affect the validity or enforceability of any other Terms and Conditions. Any delay or failure by DLS in enforcing its rights shall not be construed as a waiver of those rights. This Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, executors, administrators, legal personnel, representatives, successors and assigns, but shall not be assignable by you without the written consent of DLS. This Agreement constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior agreements, representations, warranties, statements, promises, arrangements, and understandings, whether written or oral, expressed or implied with respect thereto. Any changes or amendments to these Terms and Conditions must be agreed in writing by both parties

