

Terms and Conditions

1. **Sales:**

All sales are expressly conditional on Buyer's agreement to the standard terms and conditions. Any of the terms and provisions of the Buyer's order which are inconsistent with or in addition to the terms and conditions hereof shall not be binding on Seller and shall not be considered applicable to the sale or shipment of the merchandise referred to herein. Unless Buyer shall notify Seller in writing and signed by an authorized representative of the Seller to the contrary as soon as practicable after Buyer's receipt hereof, acceptance of the terms and conditions hereof by Buyer shall be indicated, and, in the absence of such notification, the sale and shipment by Seller of the merchandise covered hereby shall be conclusively deemed to be subject to the terms and conditions hereof. No modifications of this Agreement shall be binding unless in writing and signed by an authorized representative of the seller.

Pricing and Availability:
Although Seller tries to ensure that all details, descriptions and prices are accurate, errors may occur. If Seller discovers an error in the price of any goods which Buyer has ordered, Seller will inform Buyer as of this as soon as possible and give Buyer the option of reconfirming Buyer's order at the correct price or cancelling it. If Seller is unable to contact Buyer, Seller will treat the order as cancelled. If Buyer cancels after payment of the goods has been made, Buyer will receive a full refund.
2. **Warranties & Limitation of Liability:**

The goods sold by Seller are products of recognized manufacturers sold under their respective brand or trade names in accordance with their terms and conditions. Seller shall use its best efforts to obtain from each manufacturer in accordance with the manufacturer's warranty (copies will be furnished upon request) or customary practice, the repair or replacement of goods that may prove defective in material or workmanship. The foregoing shall constitute the exclusive remedy of Buyer and the sole obligation of Seller. Except as to title. SELLER GIVES NO WARRANTY EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR OTHERWISE. Seller shall not, under any circumstances be liable for any special, direct, indirect, incidental, exemplary, or consequential damages to persons or property arising out of a connected with the transactions contemplated hereby or the manufacture, subsequent sale, or use of the goods, including, but not limited to, loss of profit or revenues, loss of use in the products or any associated equipment, cost of capital, cost of substitute products, facilities, service or replacement power, down time, costs or claims of Buyer's customers for such damages. If Buyer transfers title to or leases the products sold hereunder to any third party, Buyer shall indemnify and defend Seller and its suppliers against any such damage. Seller's maximum liability for any reason shall be the value of the goods purchased by Buyer under this agreement, subject to the right of removal and return of the goods sold as provided below.
3. **Delivery, Title and Risk of Loss:**

Delivery dates are approximate and based upon receipt of all necessary information from Buyer. Unless otherwise specified by Seller, delivery will be made and title will pass F.O.B. point of shipment to Buyer and each shipment or delivery shall be considered a separate and independent transaction. Risks of loss or damage pass to Buyer on delivery. Freight Charges are listed as a separate line item in the invoice and also included the "Total" invoice line.
4. **Excusable Delays:**

Seller will make a reasonable effort to notify Buyer of any material delay and will specify the revised delivery as soon as practicable. Seller will not be liable for delays in delivery or performance, or for failure to manufacture, delivery or perform as a result of acts of God, fire, acts of civil or military authority, government priorities, strikes or other disturbances, floods, epidemics, war, riots, delays in transportation or car shortages, or inability on account of causes beyond the reasonable control of the Seller to obtain necessary materials, components, service or facilities, or any other cause beyond Seller's reasonable control. In the event of any such delay, there will be no termination and the date of delivery or performance shall be extended for a period equal to the time lost by the reason of delay. B & K will not be held responsible for liquidated damages caused by delayed deliveries.
5. **Returns:**

Merchandise is not returnable without the written consent of Seller. Requests of permission to return must be made within thirty days after receipt of shipment. Seller will assign an authorized number for approved returns which must appear on both the customer's shipping container and the related debit memo. Only current items in their original cartons, standard package quantities are subject to return. All unauthorized returns will be sent back to Buyer at his expense. Return shipments must be pre-paid and shipped in accordance with the instructions set forth on the return authorization form. Credit will be issued, less any transportation charges and service charges to cover handling, inspection, counting, repackaging, restocking fees, etc.
6. **Payments and Financial Conditions:**

A monthly service charge not to exceed the highest amount lawfully allowed by contract in this state, shall be made on all sums due Seller which have not been paid within forty-five (45) days from the invoice date, and Buyer agrees to promptly pay said service charges. If Seller commences litigation or employs attorneys to collect payment of any amounts due it from Buyer, Buyer agrees to pay reasonable attorney's sums which may be due.

Except to the extent otherwise specified by Seller in its quotation, prorate payments shall become due without setoff as shipments are made. If Seller consents to delay shipment after receipt of any specially ordered products, payment shall become due on the date when Seller is prepared to make shipment. In the event of any such delay, products shall be held at Buyer's risk and expense.

If Buyer fails to or refuses to accept delivery of the goods ordered hereunder or defaults in the performance of any of the terms, covenants and conditions of this agreement, Seller may retain the funds deposited or paid to it and apply the same toward payment of its damages. If materials ordered have been delivered to Buyer at the time of default, Seller may declare the full amount due and payable without notice or demand and/or may have access to Buyer's premises in order to repossess the goods if allowed under law.

Any order for products by Buyer, shall constitute a representation that Buyer is solvent and has the ability to pay its obligations as they become due. In addition, upon Seller's request, Buyer will furnish a written representation concerning its solvency at any time prior to shipment.

If Buyer's financial condition at any time does not justify continuance of the sale of goods on a credit basis by Seller hereunder on the agreed terms of payment, Seller may require full or partial payment in advance. In the event of Buyer's bankruptcy or insolvency, or in the event any proceeding is brought against Buyer, voluntary or involuntary, under any bankruptcy or insolvency laws, Seller shall be entitled to cancel any order then outstanding at any time during the period allowed for filing claims against the estate, and shall receive reimbursement of its proper cancellation charges. Seller's right under this article in addition to all rights as they are available to it at law or in equity.
7. **Disclosure of Information:**

Any information, suggestions or ideas transmitted by Buyer to Seller, or in performance hereunder are not to be regarded as secret or submitted in confidence except as may be otherwise provided in writing and signed by a duly authorized Officer of Seller.
8. **Taxes:**

In addition to any price specified herein, Buyer shall pay the gross amount of any present or future sales, use, excise, value-added, or other similar tax applicable to the price, sale or delivery of any product or services furnished hereunder or to their use by Seller or Buyer, or Buyer shall furnish Seller with a tax exemption certificate acceptable to the taxing authorities. Seller will only collect sales taxes for the State of California; however, if a Vendor charges taxes for merchandise shipped out-of-state, then Seller will collect the out-of-state taxes owed to Vendor.
9. **Claims against Seller:**

In order to give Seller a reasonable opportunity for investigation, any claim by Buyer against Seller based wholly or in part upon or any manner related to this agreement and/or merchandise sold hereunder shall be made in writing and delivered to Seller within (30) days after the date of sale or occurrence giving rise to the claim, whichever shall be later otherwise such claims shall be waived. Each notice of claims shall set forth fully the facts on which the claim is based. Any action based on such claims or otherwise arising hereunder, must be commenced and prosecuted within two years after the cause of action has been accrued. This agreement shall in all respects be governed by the laws of the state of California, United States. Buyer agrees that the California courts located in Los Angeles, California, shall have exclusive jurisdiction over all claims arising under or in any way related to this Agreement and agree that venue and jurisdiction is proper in those courts.
10. **Paragraph Headings:**

Paragraph headings are intended for convenience only and shall not be deemed to limit or affect the scope of the provisions contained herein.