

HiRel Systems

TERMS AND CONDITIONS OF SALE

1. CONTRACT TERM

These Terms and Conditions constitute an integral part of any offer made by HiRel Systems (Seller) to sell goods to Purchaser and shall govern the sale of the goods. Any additional or different terms or conditions proposed by Purchaser are hereby objected to. Acceptance and delivery of goods shall be conclusive evidence of the Purchaser's approval and consent to these terms and conditions.

2. PRICES

- 2.1 Quotations. Unless otherwise stated, all prices quoted by Seller are based on U.S. dollars, FOB shipping point, include domestic packaging and are effective for thirty (30) days from the date of quotation.
- 2.2 Transportation. Transportation shall be by common carrier, at Purchaser's risk and expense with the charges therefore added to the quoted prices.
- 2.3 Delay in Acceptance of Delivery. Should the delivery date be postponed by Purchaser, Seller shall have the right to adjust the price of the undelivered goods to Seller's price to those in effect at the time of shipment.
- 2.4 Escalation. Unless otherwise agreed to in writing, Seller reserves the right to increase its prices to those in effect at the time of shipment.
- 2.5 Surcharges. From time to time it may be necessary for Seller to impose surcharges on prices to reflect volatile price changes of raw material, such as copper, gold, silver, nickel, ferrite, etc. Purchaser agrees to pay the surcharges in effect at the time of shipment.

3. TAXES

Any sales, use or manufacturer's tax which may be imposed upon the sales or use of goods, or any property tax levied after readiness to ship, or any excise tax, license or similar fee required under this transaction, shall be in addition to the quoted prices and paid by the Purchaser. If Purchaser is exempt from any taxes, Purchaser shall furnish Seller and appropriate tax exemption certificate, in form acceptable to the taxing authority.

4. TERMS OF PAYMENT

- 4.1 Due Date. Unless otherwise agreed, terms are net thirty (30) days from the date of the invoice. All charges are payable in U.S. dollars.
- 4.2 Late Payment. A service charge of 1 1/2 percent per month, not to exceed the maximum rate allowed by law, shall be made on any portion of Purchaser's outstanding balance which is not paid within thirty days after the invoice date.
- 4.3 In the event that legal action is taken by Seller, Purchaser shall be liable for Seller's reasonable attorney fees, plus the other costs of such action.

5. EXPORT PAYMENT TERMS

Unless other arrangements have been made, payment on export orders shall be made by irrevocable confirmed letter of credit, payable in U.S. dollars against Seller's invoice and standard shipping documents. Such letter of credit shall be in an amount equal to the full purchase price of the goods, and credit shall be established in a bank acceptable to Seller.

6. EXPORT, RISK OF LOSS, AND SHIPMENT

- 6.1 Delivery Date. Delivery and completion schedules are approximate only and are based on conditions at the time of acceptance of Purchaser's order.
- 6.2 Risk of Loss. Unless otherwise agreed to in writing, delivery shall be complete upon transfer of possession to common carrier at FOB shipping point where upon all risk of loss, damage or destruction to the goods shall pass to Purchaser.
- 6.3 Shipment. In absence of written agreement to the contrary, the means of the shipment will be at the discretion of Seller. Seller reserves the right to make partial shipments and to submit invoices for partial shipments.
- 6.4 Quantity. Since all goods are produced to special order, Purchaser agrees to accept and pay for quantity shipped 5% over or under the quantity ordered as complete satisfaction of our order.

7. TITLE

Unless otherwise agreed to in writing, title to the goods shall remain with Seller until all payments due hereunder have been made.

8. CHANGES AND CANCELLATIONS

If Purchaser cancels or changes an order, and since all goods are produced to special order, Purchaser agrees to pay Seller the amount necessary to recover the FULL costs of such charges or cancellations. Seller reserves the right to deny order changes. Purchaser agrees to pay the full price of the goods ordered if more than 60% of cost of producing the goods has been incurred by Seller prior to cancellation by Purchaser.

9. FORCE MAJEURE

Seller will make every effort to complete shipment but shall not be liable for any loss or damage or for delay in delivery due to causes beyond its reasonable control, including, but not limited to fire, acts of God, acts of government, material or labor shortages or compliance with any governmental rules or regulations.

10. WARRANTY

All goods are warranted to meet, at the time of shipment, the Seller's specifications for the goods, Seller's approved samples, or any Purchaser's specifications that are provided to—and accepted by—Seller at time of order placement. SELLER HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES—WHETHER EXPRESS, IMPLIED, OR STATUTORY—INCLUDING ANY ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE, ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. If the goods are nonconforming or otherwise in breach of the preceding warranty, Purchaser shall promptly notify Seller and receive an RMA# before returning the goods to Seller. Purchaser must notify Seller and make any claim for breach of warranty no later than one year after shipment of the goods. For any claim for nonconforming goods made in accordance with these terms, Seller shall provide, at its option, one of the following: repair or replacement of the goods, a credit for the goods, or refund of the price. The foregoing shall be the EXCLUSIVE REMEDY of Purchaser for any breach of warranty. Purchaser agrees to be responsible for all expense of removal, freight and reinstallation in connection with repairs or replacement of nonconforming goods. In no event will Seller be responsible for repairs or replacements made or installed by Purchaser or by others. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER, such as loss of anticipated profits or interruption of operations.

11. PATENTS

Purchaser agrees to indemnify Seller against any patent infringement claims made against Seller for the sale or production of goods produced by Seller according to designs or specifications supplied by Purchaser.

12. CREDIT

Seller may in its sole discretion at any time and from time to time change the terms of the Purchaser's credit, require payment of cash before shipment and/or require payment of any or all amounts due or to become due under an order. If Seller believes in good faith that Purchaser's ability to make payment as required under an order is, or may be impaired, Seller may cancel an order or any remaining balance with Purchaser remaining liable to pay for all goods already shipped and to pay all reasonable cancellation charges.

13. LIABILITY

Purchaser and Seller both agree that the maximum liability for damages for either party under this agreement shall be limited to the value of the goods ordered by the Purchaser on this individual order (plus reasonable attorney fees) and we further agree that no court of law shall increase this limit of liability.

14. MODIFICATIONS

This agreement may not be changed, modified or amended, except in writing signed by an authorized representative of the Seller. Purchaser shall not assign this order, any interest or rights thereunder without the prior written consent of Seller. The rights and obligations of the parties under this agreement shall be governed by law of the state of Minnesota.

15. HEADINGS

The headings of sections are for reference only and shall be given no substantive effect whatever.

16. DISPUTES

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgement upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. However the Arbitrator(s) shall not have the power of authority to modify or alter any express provision of these Terms and Conditions or to render an award which by its terms has the effect of modifying or altering any express condition or provision hereof.