



**STANDARD TERMS AND CONDITIONS OF SALE
ORSHELN PRODUCTS L.L.C.**

1. **Terms and Conditions of Sale:** All goods furnished by Orscheln Products L.L.C. ("Seller") shall be governed by, and subject to a) Seller's quotation, order acknowledgement, or a separate written agreement signed by an authorized representative of Seller, as applicable, and (b) the following standard terms and conditions of sale ("Standard Terms") unless otherwise agreed to in writing between Seller and Buyer.

2. **Acceptance:**
 - a. Buyer is deemed to have accepted these Standard Terms upon (i) Buyer's signing and returning to Seller the acknowledgment copy of these Standard Terms or (ii) Buyer's acceptance of delivery of the goods subject to these Standard Terms, whichever occurs first.
 - b. If Buyer's forms are used for the purpose of placing an order with Seller, any additional or different terms stated in or attached to Buyer's communications to Seller, including but not limited to Buyer's purchase orders or Buyer's standard terms and conditions, are deemed material and are hereby rejected. Trade custom, trade usage and past performance are superseded by these Standard Terms and shall not be used to interpret these Standard Terms.

3. **Shipment and Delivery:**
 - a. Shipment may be made in separate lots, each standing as a separate contract subject to the terms hereof as if each lot were incorporated in a separate contract containing all such terms. Payment for each lot shall be due upon tender of delivery of each such lot. Buyer may not refuse tender of delivery of any lot or refuse payment therefor because of Seller's failure to ship or deliver any other lot or because of non-conformity in any other lot.
 - b. Unless otherwise specified on the face hereof, Seller will cause delivery of the goods to a carrier ExWorks Seller's premises or other location selected by Seller, and all risk of loss, damage or charge shall pass to Buyer upon delivery to the carrier.
 - c. . In the event that (a) any public charge, tax, duty or tariff, or increase therein, is or shall be assessed or imposed on the goods, on any sale or delivery of the goods, or on the export or import of the goods; or (b) any change shall be made in the present custom, railway or shipping classification of the goods; or (c) any change shall be made in existing freight or shipping rates or insurance rates affecting the goods; or (d) there should be a devaluation of the dollar so as to increase the cost to Seller of importing the goods so sold; or (e) any other increase in the cost of selling or delivering, manufacturing or assembling the goods pursuant to these Conditions of Sale (including price increases in utilities, direct labor, taxes, raw materials or components) shall result from any change occurring after the date of these Conditions of Sale; then, each such assessment, charge, or increase shall be for Buyer's account and paid for by Buyer.

4. **Receipt of Goods:** The signature of Buyer on carrier's bill of lading or receipt of shipment, without exceptions, will constitute conclusive proof that shipment received by Buyer was in good order and in correct quantity and shall be deemed an acceptance of the goods by Buyer. Further, any certification of the goods by any foreign, federal, state or local governmental authority or agency shall constitute conclusive proof that such goods are sound. Any defects, shortages or damages sustained in transit of merchandise must be noted at time of delivery on carrier's bill of lading, and notice of same by cable, telephone (confirmed in writing) telex or other electronic communication (receipt confirmed by Seller) sent IMMEDIATELY to Seller. Any claim with regard to an apparent defect shall be deemed waived and released by Buyer unless noted as aforesaid upon delivery of the goods and any claim with respect to a defect which could not have been discovered upon a reasonable inspection at time of delivery shall be deemed waived and released by Buyer unless presented in writing to Seller within ten (10) days after delivery. In the event a claim is made by Buyer, Buyer shall preserve the goods intact and afford Seller the opportunity to inspect the goods before they have been further handled, processed or otherwise dealt with, or, at Seller's request, make shipment to a location selected by Seller of a sample of the goods for inspection by Seller. No claim by Buyer shall entitle Buyer to withhold payment of any sum due to Seller under these Conditions of Sale or any other contract, or give Buyer any right of set-off against other payments due from Buyer to Seller. THE SOLE AND EXCLUSIVE REMEDY OF BUYER UPON REJECTION OF ANY SHIPMENT OR PART THEREOF SHALL BE, AT SELLER'S OPTION, THE REPLACEMENT OF THE REJECTED GOODS OR A REFUND OF THE PURCHASE PRICE; UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR BY REASON OF THE USE OF OR INABILITY TO USE THE GOODS PURCHASED FOR ANY PURPOSE.
5. **Mitigation of Damages:** Buyer agrees to use its best efforts to minimize any damage to goods rightfully rejected or for which there may have been a breach of warranty. Buyer agrees to follow the reasonable instructions of Seller with respect to the disposition of the goods.
6. **Payment:** Payment terms are Net 30 days from the date of invoice, to be paid in U.S. Dollars (USD). Any amount not paid when due shall be subject to a service charge for administration and costs, calculated at the rate of the lower of one and one-half percent (1.5%) per month or the highest legal rate of interest.
7. **Title:** Title and property rights in the goods covered hereby in all cases shall remain in Seller until full payment for such goods is made by Buyer. Buyer hereby grants a security interest in said goods and all proceeds therefrom to Seller as security for full payment, and Buyer hereby appoints Seller as its attorney in fact to execute and file any Uniform Commercial Code financing statements and/or such other documents as may be required as evidence of and to perfect the security interest hereby granted. Buyer agrees that upon the occurrence of a default specified in paragraph 9 hereof, Buyer shall, at its expense, assemble the goods and make them available to Seller at a convenient place acceptable to Seller.
8. **Excusable Delay:** Seller shall not be liable for any failure or delay in shipment or delivery or shortage of shipment due to strike or labor trouble (wherever occurring), war, insurrection, civil commotion, public enemy, fire, explosion, accident, flood, storm, act of God, act of any governmental authority, including, without limitation, governmental inspections, executive or administrative orders or other legal restrictions, riot, embargo, blockade, quarantine, wrecks or delay in transportation, inability of Seller to obtain the goods for resale to Buyer, or any other cause beyond the reasonable control of Seller. In the event of non-delivery or delay in delivery or shortage of shipment, Seller reserves the right to cancel in whole or in part these Conditions of Sale, or, alternatively, to renegotiate these Conditions of Sale in light of the new circumstances prevailing at the time. Seller shall notify Buyer at the address set forth on the face hereof within a commercially reasonable period of time in the event of non-delivery of the goods as a result of the occurrence of any of the events specified in this paragraph.

9. **Solvency:** If Buyer (a) generally does not pay its debts as such debts become due, or admits in writing its inability to pay its debts generally, or makes a general assignment for the benefit of creditors, or any proceeding is instituted by or against Buyer seeking to adjudicate it bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property, or the credit of Buyer has otherwise become impaired or unsatisfactory to Seller; (b) fails to comply with the terms and conditions hereof or with the terms and conditions of any other contract with Seller; (c) fails to accept a conforming lot delivered hereunder; or (d) fails to make payment for any shipment or lot delivered hereunder or under any other contract with Seller in accordance with the terms of payment set forth herein or therein; then, Seller may elect to take any one or more of the following actions: (1) hold the goods and charge Buyer's account with the contract price plus any expenses incurred by Seller as a consequence of such default; (2) resell the goods within a commercially reasonable period of time following the default and charge Buyer's account with the difference between the resale price and the contract price, plus any expenses incurred in connection with the resale or as a consequence of the default; (3) require payment by cash in advance of any delivery of the goods; (4) withhold any undelivered portion of the goods; (5) exercise Seller's right of reclamation as to goods previously shipped as provided in Section 2-702 of the Uniform Commercial Code; (6) enter Buyer's premises and retake possession of the goods as provided in Section 9-503 of the Uniform Commercial Code; or (7) terminate these Conditions of Sale. The rights and remedies conferred hereunder on Seller shall not be exclusive and shall be in addition to all other rights and remedies conferred upon or afforded to Seller under the Uniform Commercial Code as enacted in the State of Missouri or under any other applicable law, including, but not limited to, the remedies of incidental and consequential damages.
10. **LIMITED WARRANTY:** SELLER WARRANTS THAT ITS GOODS SHALL BE FREE FROM DEFECTS OF WORKMANSHIP OR MATERIAL FOR ONE YEAR FROM THE DATE OF MANUFACTURE. EXCEPT AS SET FORTH IN THIS PARAGRAPH 10, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR AS TO FITNESS FOR A PARTICULAR PURPOSE. BUYER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY IS THE REPAIR OR REPLACEMENT OF THE DEFECTIVE GOODS OR REFUND OF THE PURCHASE PRICE PAID, AT THE OPTION OF SELLER. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO COST OF "COVER", LOST PROFITS, SAVINGS OR REVENUE, LOSS OF USE OF A PRODUCT OR ANY ASSOCIATED EQUIPMENT, PATENT INFRINGEMENT, COST OF CAPITAL, COST OF ANY SUBSTITUTE GOODS, DOWN-TIME AND ANY OTHER DAMAGES SUFFERED BY BUYER IN CONNECTION WITH THE PURCHASE, USE, DISPOSAL OR RESALE OF THE GOODS. ORAL STATEMENTS CONCERNING THE GOODS COVERED BY THIS CONDITIONS OF SALE OR STATEMENTS CONTAINED IN SELLER'S GENERAL ADVERTISING, WEBSITE, PAMPHLETS, CATALOGS OR OTHER PRINTED MATERIAL DO NOT CONSTITUTE WARRANTIES AND BUYER AGREES THAT IT DOES NOT PLACE ITS ORDER IN RELIANCE UPON THEM. ANY SAMPLE MADE AVAILABLE TO BUYER IS MERELY TO ILLUSTRATE THE GENERAL TYPE AND QUALITY OF THE GOODS, AND NOT TO REPRESENT OR WARRANT THAT THE GOODS WOULD CONFORM TO SUCH SAMPLE.

THIS WARRANTY IS EFFECTIVE PROVIDED THAT (1) SELLER IS NOTIFIED WITHIN 14 DAYS OF DISCOVERY OF THE DEFECT; AND (2) THE ORIGINAL PRODUCT IS PROMPTLY RETURNED TO THE SELLER (TRANSPORTATION CHARGES ARE PREPAID); AND (3) SELLER'S EXAMINATION DISCLOSES TO SELLER'S SATISFACTION THAT SUCH DEFECT HAS NOT BEEN CAUSED BY MISUSE, ABUSE OR ACCIDENT AND IS DUE TO A DEFECT IN WORKMANSHIP OR MATERIAL.

PRIOR SHIPMENTS TO BUYER OF THE TYPE OF GOODS COVERED BY THESE CONDITIONS OF SALE ARE NOT REPRESENTATIVE OF THE QUALITY OF THE GOODS DELIVERED UNDER THESE CONDITIONS OF SALE, AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE GOODS DELIVERED HEREUNDER WILL BE OF THE SAME QUALITY AS GOODS PREVIOUSLY DELIVERED TO BUYER. THE WARRANTIES PROVIDED IN THIS PARAGRAPH 10, AND THE OBLIGATIONS AND LIABILITIES OF SELLER HEREUNDER ARE IN LIEU OF, AND BUYER HEREBY EXPRESSLY WAIVES, ALL OTHER WARRANTIES, GUARANTEES OR LIABILITIES (INCLUDING WITHOUT LIMITATION, ANY PRODUCT LIABILITY), EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, AND WHETHER OR NOT OCCASIONED BY SELLER'S NEGLIGENCE, AND SHALL NOT BE EXTENDED, ALTERED OR VARIED EXCEPT BY A WRITTEN INSTRUMENT SIGNED BY SELLER AND BUYER.

11. **Limitation on Recovery:** Any action resulting from any breach on the part of Seller arising out of these Conditions of Sale must be commenced within one (1) year after the cause of action has accrued.
12. **Intellectual Property:** Seller makes no warranties with respect to patent infringement or that the use or re-sale of the goods sold hereunder will not infringe the claims of any validly issued patent. Buyer agrees not to file any patent application which discloses the goods sold hereunder, usage thereof or method for making the goods without the prior written consent of Seller. Buyer also hereby grants and agrees to grant to Seller, its parent, affiliates, subsidiaries, customers and suppliers, a worldwide non-exclusive royalty-free license under any of Buyer's inventions or discoveries which are related to or based upon the goods including but not limited methods for using the goods.
13. **Notices:** All notices allowed or required under these Conditions of Sale shall be in writing and shall be deemed sufficient if sent by personal delivery, or by registered or certified mail, postage prepaid, or by first class air mail, postage prepaid (for international mail), or by facsimile, telex or telegraph, to the parties at the addresses given on the face hereof or to such other address as either party may notify. Notice shall be deemed given upon actual receipt.
14. **Entire Agreement:** These Conditions of Sale constitutes the entire agreement between Seller and Buyer. These Conditions of Sale supersedes any and all understandings, representations, proposals or negotiations between the parties, including, without limitation, any brokerage confirmation between the parties, whether oral or written. No oral agreements or representations and no course of dealings between the parties or usage of trade shall be relevant to supplement, explain, contradict or vary in any way, any provision contained herein.
15. **Waiver:** No waiver of any provision of or default under these Conditions of Sale shall affect Seller's rights thereafter to enforce such provision or to exercise any right or remedy in the event of any other default, whether or not similar. No waiver shall in any event be effective unless in writing and signed by Seller.
16. **Modification:** None of the terms and conditions contained in these Conditions of Sale may be added to, modified, superseded or otherwise altered except by a written instrument signed by Seller and Buyer.
17. **Assignment:** The rights and obligations of Buyer hereunder may neither be assigned nor delegated without the prior written consent of Seller but such obligations shall be binding upon Buyer and Buyer's affiliates, successors, assigns, and any of Buyer's transferees of the goods subject hereto.
18. **Severability:** Wherever possible, each provision of these Conditions of Sale shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of these Conditions of Sale shall be prohibited by or invalid under applicable law, said provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of these Conditions of Sale.

19. **Dispute Resolution:** Any claim or controversy whatsoever between Buyer and Seller or arising out of or relating to these conditions of sale, or the breach thereof or otherwise, shall be settled by final and binding arbitration by a single arbitrator in Randolph County, Missouri, to be conducted in the English language in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof as the final non-appealable judgment thereof. If any intellectual property claim is asserted in the initial notice or initial response of any party, the arbitrator shall be a member in good standing of the American Intellectual Property Law Association (AIPLA). The award shall be made within ninety (90) days of the initial notice of arbitration. Nothing herein shall prevent either party from seeking temporary or provisional judicial relief pending the final actions of the arbitration and Buyer hereby expressly submits and consents in advance to the exclusive jurisdiction of the State Courts in Randolph County, Missouri, for said purpose and hereby waives personal service of the summons and complaint or other process or papers and agrees that any service thereof may be made by the registered or certified mail of any applicable country addressed to Buyer at the address of Buyer set forth on the face hereof or any other known legal address of Buyer.
20. **Governing Law:** This Purchase Order shall be deemed made and executed in Randolph County, Missouri, and shall be governed by and construed in accordance with the laws of the State of Missouri, without regard to its conflict of laws provisions. The parties disclaim the application of the United Nations Convention on the International Sale of Goods.
21. **Export Control:** Buyer agrees to and shall adhere to all applicable United States and foreign export control laws and regulations and will not export or re-export any technical data or products to any proscribed country listed in US Export Administration regulations, or foreign nationals thereof, unless property authorized by the U.S. government.
22. **Government Contracts.** If Buyer is purchasing the Products or Services for a government contract or sub-contract, Buyer shall promptly notify Seller of that fact and of any contractual terms from the government procurement laws and regulations that Buyer is obligated to include in its contracts for such Products or Services. No government procurement provisions will be included in this Agreement unless agreed to in a writing signed by an authorized representative of Seller.