

INVOICE TERMS AND CONDITIONS

As used below the term AFC means AFC Industries, Inc. or any such business doing business as set forth as the face of this document (hereinafter referred to as AFC).

1. ACCEPTANCE. THE ACCEPTANCE OF BUYER'S ORDER IS SUBJECT TO ALL TERMS AND CONDITIONS SET FORTH HEREIN, ALL OF WHICH ARE ACCEPTED BY BUYER, SUPERSEDE BUYER'S ORDER FORM AND ACKNOWLEDGEMENT IF ANY, AND CONSTITUTE THE ENTIRE CONTRACT BETWEEN BUYER AND AFC. The herein document shall become a contract either when at AFC's option, (a) Buyer shall have placed an order with AFC and/or given to AFC specification of assortments, delivery dates, shipping instructions, or instructions to bill and hold as to all or any parts of the goods herein described, or (b) when Buyer has received delivery of the whole or any part of such goods, or (c) when Buyer has otherwise assented to the terms and conditions hereof either in writing, orally, or by conduct. No communication, prior to subsequent hereto, shall act to modify, amend, or reject any term or condition stated herein unless expressly agreed to in writing by a duly authorized officer of AFC.

2. ALTERATION OF TERMS. Changes in the terms and conditions herein shall not be binding on AFC unless made in writing and executed by a duly authorized officer of AFC.

3. PAYMENT. Payment is due from Buyer on the following terms: net 30 days, unless otherwise agreed to in writing, by both parties. All payments not made by the due date shall bear interest at a rate of one and one half (1 1/2) percent per month on the unpaid balance. Further, the Buyer shall reimburse and indemnify AFC for any costs of collection incurred in collecting any past due sums, including court fees, out-of-pocket expenses, and reasonable attorneys' fees.

4. SHIPMENT AND RISK OF LOSS. Buyer shall accept the goods F.O.B. AFC's facility, Fairfield, Ohio, unless otherwise agreed to in writing, by both parties. Method and route of shipment are at AFC's discretion unless Buyer supplies explicit instructions otherwise. All expenses and risk of loss for any damages incurred in the transportation of goods, including but not limited to any risk, of loss of loading or unloading, shall be born solely by Buyer, unless otherwise specified in writing by a duly authorized officer of AFC. All Claims for loss, damage, or delay against the carrier must be made by Buyer. Buyer shall accept partial delivery of any order, and, any defect therein or failure to make any subsequent partial delivery shall be severable, and shall not constitute a breach of the entire agreement.

5. DELAYS AND DAMAGES. AFC shall endeavor as far as practicable to make deliveries in accordance with this agreement, but if for any cause AFC shall fail to make such deliveries, or shall fail to make them within the time stated herein, or shall cancel any order. AFC shall not be liable for any loss or damage resulting from any such failure or delay in delivery, or from any such cancellation, or for loss of use, or for any loss of profits.

6. INSPECTION. Buyer agrees to inspect all goods upon delivery and must reject any non-conforming goods pursuant to the terms and conditions set forth in Section Seven (7) herein. Buyer waives his rights under Section Seven (7) herein if he elects not to make such inspection.

7. REJECTION OF NON-CONFORMING GOODS. Any rejection of goods for being non-conforming must be made immediately after delivery at the place of destination by Buyer notifying AFC and confirming the rejection in writing within ten (10) days after delivery at the place of destination. Such notification shall identify each and every alleged non-conformity of the goods and describe that portion of the shipment being rejected. AFC shall then respond with instructions as to the disposition of the goods. If Buyer fails to give such notice, or if Buyer uses the goods in any manner inconsistent with the rights of AFC, the goods shall be deemed to conform with the terms of the agreement in all respects and Buyer shall be bound to accept and pay for the goods in accordance with the terms hereof. ALL MERCHANDISE RETURNED FROM BUYER TO AFC MUST BE IN THE ORIGINAL AFC OR MANUFACTURER CONTAINER AS SHIPPED TO BUYER. RETURNED MERCHANDISE IN ANY CONTAINER, OTHER THAN THAT ORIGINALLY SHIPPED TO BUYER, WILL NOT BE ACCEPTED BY AFC.

8. CANCELLATION OR OBSOLESCENCE. Any order accepted by AFC may be cancelled by Buyer only upon written approval of AFC by a duly authorized representative of AFC. Buyer shall reimburse AFC for any and all expenses incurred by AFC in connection with such order, including inventory on hand or on order and finishing completed or in process tooling and engineering.

9. LIMITED WARRANTY AND LIMITATION OF REMEDY AND DAMAGES. AFC warrants the goods DELIVERED UNDER THIS CONTRACT to be free from defects in materials and workmanship under normal use and service for (90) days from the date of shipment and will, at its option, repair or replace any goods that are shown to be defective in materials or workmanship within such ninety (90) day period upon written notification from Buyer clearly identifying each and every defect and providing for inspection of such goods at AFC's Fairfield, Ohio corporate offices. AFC's obligation with respect to such goods will be limited, at its option, to replacement or repair of such goods. IN NO EVENT SHALL AFC BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, OR FOR TRANSPORTATION, INSTALLATION, ADJUSTMENT, OR OTHER EXPENSES, WHICH MAY RISE IN CONNECTION WITH THE GOODS. Any abuse or misuse of the goods by Buyer voids this limited warranty.

THE FORGOING LIMITED WARRANTIES ARE EXCLUSIVE, AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

10. INDEMNIFICATION. Buyer hereby agrees to defend, indemnify and hold harmless AFC, and its agents and employees, from any claims, damages or expenses, including reasonable attorney fees, arising or alleged to arise from: (1) any asserted deficiencies or defects in the goods caused by alteration thereof made by Buyer with or without AFC's consent, or the improper handling or storage by Buyer; (2) the breach of

any term stated herein; or, (3) the act or omission of Buyer; irrespective of whether such claim, damage or expense is caused, or alleged to be caused, in part by the joint, several, comparative, (but not sole), negligence, breach of contract or warranty, or any other breach of duty by AFC whether asserted under a negligence, a strict or any other product liability theory, or any other legal theory.

11. NON-PERFORMANCE. Neither party hereto shall be liable to the other for failure to perform its obligation hereunder, in whole or in part, when performance is prevented by flood, drought, fire, or any another casualty, war, riot, insurrection, acts of God, restriction or interference by any government, or governmental agency, strike, work stoppage or slowdown, or any cause beyond the control of the party failing to perform. Any suspension of performance by reason of this section shall be limited to the period during which cause of failure exists.

12. ARBITRATION AND FORUM SELECTION. Upon demand of AFC, such demand to be made at AFC's sole discretion, any claim or controversy arising out of or relating to this contract shall be settled finally and exclusively by arbitration held in Cincinnati, Ohio under the Uniform Arbitration Act, Ohio Rev. Code §2711.01, *et seq.*, in accordance with the rules of the American Arbitration Association, by which each party hereto agrees to be bound. Judgment upon the award rendered by the chosen arbitrator(s) may be entered in a court of competent jurisdiction situated in Hamilton County, Ohio. Should AFC choose in its sole discretion to resolve any dispute through arbitration as permitted in this paragraph, proceeding to arbitration and obtaining an award thereunder shall be a condition precedent to any party bringing or maintaining any action in any court with respect to any dispute arising under this contract, except for the institution of a civil action to maintain the status quo during the pendency of any arbitration proceeding. Any and all actions which may be brought in court for any claim or controversy arising under this agreement shall be filed and maintained only in a State or Federal court of appropriate jurisdiction located in Hamilton County, Ohio, United States of America.

13. GOVERNING LAW. This agreement shall be governed by the Uniform Commercial Code as adopted and construed in the State of Ohio, United States of America, and any other applicable Common Law or Statute of the State of Ohio, United States of America notwithstanding any state's choice of law rules to the contrary.

14. SEVERABILITY. In the event that any provision hereof shall be found to be invalid or unenforceable, the remaining portions of this contract shall remain in full force and effect as if the invalid or unenforceable portion were not apart of this contract when it was executed.

15. WAIVER. No delay or failure on the part of AFC in exercising any right, privilege or remedy shall operate as a waiver of such or of any other right, privilege or remedy, and no waiver whatever shall be valid against AFC unless in writing by a duly authorized officer of AFC and then only to the extent set forth therein. No waiver by AFC of any breach of this contract by Buyer shall be deemed a waiver of any prior or subsequent breach of the same or any other provision of this contract.

16. HEADINGS. Section and other headings contained in this document are for reference purposes only and shall not affect, in any way, the meaning or interpretation of this document.

17. ASSIGNMENT. No assignment of this contract of the rights and obligations hereunder shall be valid without express written consent of both parties.

18. MERGER CLAUSE. This document contains the entire understanding and agreement of the parties upon the subject matter hereof. There is no agreement, oral or otherwise, which is not set forth in this writing and neither parol nor extrinsic evidence shall be introduced to explain or change the terms of this agreement.

19. UNITED STATES OF AMERICA CUSTOMS COMPLIANCE NOTICE TO SUBSEQUENT PURCHASER OR REPACKER. As to any articles covered by this invoice, the requirements of 19 U.S.C. 1304 AND 19 CFR Part 134 provide that the articles of their containers must be marked in a conspicuous place as legibly, indelibly and permanently as the nature of this article of container with permit, in such a manner as to indicate to the ultimate purchaser in the United States and the English language name of the country of origin of the article.