



Terms & Conditions

These are the Terms and Conditions of sale for Mar-Hy Distributors (Seller). There are no other terms of sale unless Seller agrees in writing to different terms with you the "Purchaser" of Seller's products.

1. Acceptance of Orders

Acceptance by Seller of Purchaser's order, with or without a purchase order, is expressly conditioned upon Purchaser's assent to these Terms and Conditions. Purchaser will be deemed to have assented to such Terms and Conditions unless Seller receives written notice of any objections prior to any delivery or other performance by seller of Purchaser's order. Seller expressly rejects and objects to all new, different or additional terms of sale submitted by Purchaser. Seller also reserves the right to select its own customers and the right to reject any order. Affidavits or certificates of compliance for specific materials must be requested when orders are placed.

2. Prices

All prices are subject to change without notice. Unless otherwise specified, orders will be shipped and invoiced at the price in effect at the time of shipment. Any tax or other charge on the production, sale or shipment of the products imposed by federal, state, or local governmental authorities will be added to the price to be paid by Purchaser.

3. Terms of Payment

Subject to the approval of Seller's credit department, terms of payment are **2% 10th, net 30th of the following month** for material sales and **net 30th of the following month** for contract sales. Purchaser is also responsible for amounts due under No. 10 below. A monthly late charge of 1.5% may be added to accounts 30 days past due.

4. Delivery

All products sales are F.O.B. Seller's place of shipment. Seller shall have no liability for delays, damage, or delivery failures occurring after the product is delivered to the carrier. Purchaser is solely liable for demurrage charges assessed at the destination. Products shortages and visibly damaged or defective products must be reported to Seller upon receipt of delivery. Purchaser may not withhold payment on uncontested product deliveries. On deliveries by Sell, Purchaser agrees to pay delivery charges when applicable.

5. Title and Risk of Loss, Security Interest

Title to all risk of loss or damage to the products vest in Purchaser at the time Seller delivers the products to the carrier regardless of any shipping and insurance arrangements made by Seller on Purchaser's behalf. However, Seller reserves, until full payment is received, a purchase money security interest in each product delivered.

6. Returns

Product returns will be accepted only after Purchaser receives Seller's prior written approval as follows: (a) For returns authorized due to Purchaser's rightful rejection or justifiable revocation of acceptance of the products. No request for returns based on damaged or defective products will be approved unless received within the time periods set forth in No. 4 and No. 7; (b) where Seller determines, in its sole discretion, to accept returns to the point of shipment, at Purchaser's expense, properly pack. Seller will issue a credit for the quantity of product received at Seller's shipping point in resalable condition, as determined by Seller in its reasonable discretion.

7. Warranty Specifications

Seller disclaims all representations and warranties of any kind, express or implied, in fact or in law, including without limitation, the implied warranty of the merchantability and implied warranty of fitness for a particular purpose.

8. No recovery of Consequential or Special Damages
Seller shall not be liable for any consequential or special damages based on negligence, strict liability, or any other theory, for failure to perform its obligations under this agreement. Additionally, consequential and special damages shall not be recoverable even if the repair, replacement or refund remedy for Seller's breach of its limited warranty fails of its essential purpose or any other reason.
9. Force Majeure
Seller shall not be liable, nor deemed in default hereunder, for any failure or delay in delivering the products or in the performance of its other obligations to Purchaser hereunder, caused by or arising out of: (a) compliance in good faith with any applicable foreign or domestic governmental regulation or order of whatever nature and whether foreign, federal, state, or local; (b) all forces of nature (such as, but not limited to, floods, fires, or tornadoes); (c) strikes and other labor trouble; (d) delays or nonperformance by suppliers (or other third parties) or raw materials; power or other needed supplies or services; (e) delays or nonperformance by transporting carriers; and/or (f) any other cause, contingency, or circumstance not subject to the reasonable control of Seller affecting the performance of Seller's obligations hereunder. Seller shall determine in good faith the extent to which it can reasonably control a cause, contingency, or circumstances affecting its performance obligations.
10. Default
In the event of Purchaser's default, Purchaser agrees to pay all costs and expenses, including reasonable attorney's fees, incurred by Seller whether involving collecting payments due or otherwise enforcing these Terms. Purchaser also agrees to pay Seller simple interest on unpaid amounts from due date at the less of 1.5% per month or the highest lawful rate.
11. Severability
If any of these provisions are determined to be invalid, illegal, or unenforceable, the validity, legality of enforceability of the remainder of these Terms shall be unaffected. Also there shall be substituted for the affected provision of a valid and enforceable provision as similar as possible to the affected provision.
12. Modification or Termination
No terms or conditions of purchase orders different from the terms of the Seller will become part of any sales agreement, purchase order, or other document unless specifically approved in writing by the Seller. Purchaser's orders shall be deemed to incorporate the terms and conditions of this document. In no event shall preprinted terms and conditions on a Purchaser's documents, such as purchase orders, confirmations, acceptances, etc. modify or add to the terms of any order.
13. Governing Law; Jurisdiction
This agreement is to be governed by, and interpreted according to, the internal laws of the State of Oregon. The parties consent to the jurisdiction of the state and federal courts of Oregon and the effectiveness of service of process by certified United States mail.
14. Mar-Hy Distributors Logo
The Purchaser shall not use the name, trademarks, trade names or logos of the Seller without the Seller's written consent.