

Murphy and Nolan, Inc.

Terms and Conditions of Sale

In these terms and conditions of sale (the "Terms"), Murphy and Nolan, Inc. is referred to as "Seller". The party to whom Seller's quotation or invoice is addressed, or who is seeking to purchase goods is referred to as "Buyer". Seller and Buyer are collectively referred to as the "Parties". All sales of Seller to Buyer are subject to these Terms and form a binding contract between Seller and Buyer. Any purchase order, acknowledgement, or other communication from Buyer that contains terms and conditions in addition to or inconsistent with these Terms will not be binding upon Seller, unless acceptance of those terms and conditions is made in writing by an authorized representative of Seller.

1. Quotations and Acceptance of Orders

All quotations are subject to these Terms and to Seller's written order acknowledgment. Orders become effective only when accepted by Seller's order acknowledgment. All quotations are subject to prior sale and/or availability of product from Seller's supply sources.

2. Prices

Seller's invoice price supersedes all previous quotations and proposals. Unless stated otherwise, pricing errors are subject to correction and prices do not include any applicable (a) property, sales, use, privilege or export taxes, custom duties or any other tax, fee or charge of any nature whatsoever imposed by any government authority on or measured by any transaction between the Parties. Prices are not fixed until Buyer's order is accepted by Seller.

3. Payment

Upon approved credit application with Seller, terms of payment are the net amount of the invoice in United States currency within 30 days after the date of the invoice. A late payment charge allowed per applicable regulatory bodies may be charged for each month, or any portion thereof, that payment is not made within 30 days after the date of the invoice.

4. Quantity

Shipping tolerances shall be +/- 10% of the quantity ordered based on weight, length, or piece count; unless otherwise agreed upon in writing. Delivery of product within this tolerance shall constitute full delivery.

5. Shipment; Shortages; Delay; Risk of Loss

Shipment dates are estimated and Seller will not be liable for late shipments. If shipping and handling must be prepaid, payment will be made for the account of Buyer. Seller may make delivery installments, separately invoiced and payable without regard to subsequent deliveries. Delay in delivery of any installment will not relieve Buyer of its obligations to accept the initial or any remaining installments. If shipments are delayed by Buyer, invoices may be rendered on the dates Seller is prepared to make shipments. If completion of manufacture is delayed by Buyer, invoices may be rendered when delay is ascertained, based upon percentage of completion. Product not delivered by Seller transportation services will be shipped F.O.B. point of origin, with all risk of loss or damage to products passing to Buyer upon delivery to carrier; provided, however, that products held by Seller as a result of Buyer's inability or refusal to accept delivery will be held at Buyer's risk, cost and expense.

6. Force Majeure

Seller will not be liable for any delay or failure in performance of any order, in the delivery or shipment of any product or for any damages or losses suffered by Buyer or any third party which are caused by, or in any manner arise from, directly or indirectly, any labor disturbances, embargos, riots, storms, fires, explosions, acts of God or public enemies, inability to obtain necessary labor or raw materials, accidents or

breakdown to, or mechanical failure of, machinery or equipment, changes in economic conditions, severe weather, delays or interruptions in transportation or any other causes beyond Seller's control. In the event of such delay, the applicable shipment date(s) will be postponed to compensate for such delay. If Seller's performance is rendered permanently impossible or impracticable, either Party may cancel the affected order(s) upon written notice to the other Party, and, upon such cancellation, Seller will have no liability and Buyer will be liable only for that portion of such order(s) that has been completed, including without limitation all inventory and supplies not returnable for full credit or otherwise useable by Seller.

7. Manufacturer Warranty

All products sold by Seller to Buyer will be covered by the standard warranty of the manufacturer of such products and Buyer agrees to look solely to such manufacturer for any warranty claims relating to such products. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCTS OR SERVICES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Limitation of Liability; Exclusion of Damages

Seller's liability with respect to any claim by Buyer or any third party arising out of or in any way relating to any product sold by Seller to Buyer (including without limitation such product's sale, use or transportation) will be limited solely to the cost of such product and any such claim must be filed within 60 days after the delivery of such product. SELLER WILL NOT BE LIABLE TO BUYER OR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, LOST PROFITS OR OTHER LOSSES OF BUYER OR ANY THIRD PARTY ARISING OUT OF OR IN ANY WAY RELATING TO THE SALE, USE, PROCESSING OR TRANSPORTATION OF SUCH PRODUCT.

9. Acceptance of Product

Buyer shall carefully inspect all products and shipping documents promptly upon delivery. No claim for shortages, products damaged during delivery, or product nonconforming to requirements will be valid or enforceable against Seller unless (a) Buyer notifies Seller in writing specifying in detail the shortage, damage or nonconforming condition within five (5) days from the date of delivery; (b) Buyer returns the product in question to Seller within ten (10) days following delivery; (c) upon return, Seller confirms condition; and (d) Buyer has fulfilled all of the payment terms. Buyer's notice must be accompanied by the original freight bill, with notation on the face thereof by an authorized agent for the carrier as to the products claimed to be short, damaged during transit, or otherwise nonconforming. Buyer shall be deemed to have waived any claim for shortages, product damaged in transit, or nonconforming product if Buyer fails to so notify Seller within five (5) days following delivery. Any processing or use of the products by Buyer, other than return to Seller, shall represent Buyer's acceptance of the products as being satisfactory and in accordance with these Terms and Conditions. Seller will not honor any claims for damages caused by Buyer's improper storage of the goods.

10. Default

If Buyer (a) fails to pay all or any part of any amount when due, (b) fails to observe or perform any of its other obligations under these Terms or (c) becomes insolvent, is adjudicated as bankrupt, voluntarily files or permits the filing of a petition in bankruptcy, makes an assignment for the benefit of creditors, seeks any similar relief under any bankruptcy laws or related statutes or a receiver is appointed for its assets, then all sums due or to become due from Buyer to Seller, may at Seller's sole option, become immediately due and payable, and concurrently, or in the alternative, Seller may, at its sole option, terminate any existing order(s) between the Parties and exercise any other remedies available to Seller under applicable law.

11. Specifications

If Buyer provides any specifications or designs for products, Buyer will indemnify and hold harmless the

Seller for all claims, losses, costs and expenses (including without limitation attorneys' fees and disbursements) from any patent, trademark or copyright infringement claim resulting from compliance with these specifications and designs. Seller will not be responsible for the accuracy or suitability of these specifications and designs or the performance of any products built in conformance with them.

12. Counterfeit Material

The current revisions of SAE AS6174 and AS6279 shall be used as standards for limiting risk associated with the supply of authentic and conforming material. The Seller is categorized as an Authorized Supplier and in some cases as an Independent Distributor or Broker Distributor. At minimum, the Seller shall make available the manufacturer's certificate of conformance and identification (heat, lot, batch, etc.) and require that records of acquisition traceability be maintained throughout the supply chain. In some cases all records, or un-amended records, demonstrating acquisition traceability (including original manufacturer's certification,) may not be available to the Seller. Per AS6174A, C.3: an unavailable record "...does not indicate wrongdoing or that the products offered are noncompliant."

13. Costs and Expenses; Indemnification

Buyer will be responsible for all costs and expenses, including without limitation attorneys' fees and disbursements, incurred by Seller in enforcing any term or condition in these Terms, and Buyer will indemnify and hold harmless and promptly reimburse Seller for such costs and expenses. If Seller is made a defendant in any proceeding, action or arbitration by Buyer, any person or entity deriving title from Buyer, or any other third party on the basis of breach of warranty, negligence, strict liability, tort or any other theory of law or equity, which directly or indirectly arises from or relates to the sale, use, processing, or transportation of the products by Buyer, Buyer will indemnify and hold harmless the Seller from all costs and expenses incurred by any of them in connection with such proceeding, action or arbitration, including without limitation court costs and reasonable attorneys' fees and disbursements.

14. Contract Cancellation; Return Policy

Any contract or order accepted by Seller may be cancelled by Buyer prior to shipment only with the prior written consent of Seller and upon reimbursement to Seller, when applicable, for all costs, expenses and losses incurred by Seller as a result of such cancellation, including without limitation a reasonable profit and overhead.

15. Compliance with Laws

Seller will provide the product delivered hereunder in compliance with all applicable United States laws, rules and regulations. Buyer will comply with all laws, rules and regulations applicable to the possession, transportation and use of all products sold to Buyer hereunder, including all applicable United States import and export control laws and regulations, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all products delivered hereunder.

16. Governing Law; Jurisdiction; Venue

Seller's quotation, invoice, these Terms and any order acknowledgment are governed by and must be construed according to the laws of the State of New York, without reference to the principles of conflicts of law. Each of the Parties hereby irrevocably and unconditionally (a) consents to submit to the exclusive jurisdiction of the United States District Court for the applicable District of New York or the applicable state court located in the State of New York for any action or proceeding arising out of or relating to the sale of Seller's products to Buyer, (b) waives any objection to the laying of venue of any such action or proceeding in such courts and (c) waives and agrees not to plead or claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

17. Entire Agreement; Amendment; Waiver

Seller's quotation, invoice, these Terms and any order acknowledgement constitute the entire agreement between the Parties with respect to the sale of Seller's products to Buyer, superseding all prior representations, agreements or understandings, written or oral, between the Parties with respect to such sale. These Terms cannot be amended orally or by any course of conduct by either Party, but may only be amended by a written agreement executed by the Parties. The failure by Seller to (a) enforce any provision hereof will not be construed as a waiver of such provision or of Seller's right to enforce such provision and (b) object to provisions contained in any purchase order or other communication from Buyer will not be construed as a waiver of these Terms nor an acceptance of any such Buyer provisions.

18. Successors and Assigns; Assignment

These Terms will be binding upon the Parties and their respective successors and assigns; provided, however, that Buyer shall not assign any of its rights or duties hereunder without Seller's prior written consent, which consent may be withheld in Seller's sole discretion.