

TERMS AND CONDITIONS OF SALE



These Terms and Conditions of Sale govern the sale of all products and services by Spradling International (as further defined below, "Seller") to the buyer of such products and services ("Buyer"), and these Terms and Conditions of Sale supersede any contrary provisions presented by Buyer unless expressly agreed to in writing by Seller. Buyer's acceptance of or payment for goods sold by Seller, in whole or in part, shall constitute Buyer's acceptance of these Terms and Conditions of Sale. Acceptance is expressly limited to the terms and conditions set forth herein, and Seller objects to any additional or different terms submitted by Buyer.

Order Acceptance: All orders are subject to approval and acceptance by an authorized representative of Seller at Seller's offices.

Terms of Payment and Credit: Payment is due thirty (30) days from the date of invoice. Buyer agrees to pay taxes appearing on invoices submitted by Seller or to furnish Seller with a valid resale/exemption certificate no later than the time of payment. Should the financial responsibility of Buyer at any time become unsatisfactory to Seller, should Buyer fail to make payment in accordance with the terms set forth herein and in any invoice, or should Buyer fail to comply with any provision hereof, Seller may, at its option, in addition to any other remedies, deny or credit, cancel any unshipped portion of any order, and seek any other remedy available under applicable law.

Buyer shall remain liable for all unpaid accounts. Past due balances shall be subject to interest charges at a rate equal to four percent (4%) in excess of the Prime Rate as quoted in the Wall Street Journal, said rate to change when and as the said Prime Rate changes. Buyer agrees to pay all collection cost and expenses, including reasonable attorneys' fees incurred by Seller in collecting or attempting to collect such accounts.

Seller reserves the right to deny credit to Buyer or any other person.

Quantity: Seller will make reasonable efforts to furnish the exact quantity specified. Unless otherwise stipulated, Buyer shall accept an over/under run not to exceed ten percent (10%) of the quantity specified on Buyer's order.

Transportation: Delivery of product hereunder shall be made F.O.B. Seller's facility unless otherwise mutually agreed upon in writing. Title transfers to Buyer upon presentation of the material to the carrier at Seller's facility unless otherwise mutually agreed upon in writing. All expenses are to be paid by Buyer, and Seller may select the mode of transportation and the carrier unless otherwise instructed in writing by Buyer. Risk of loss or damage to product, including filing claims, shall be the responsibility of Buyer.

Delivery: Any requested change in the delivery schedule by Buyer that requires shipment of product to be extended beyond or made prior to the original shipping date must be approved in writing by Seller. In the event of such change, Seller shall be entitled to revise its prices to reflect costs associated with such change.

Force Majeure: Shipping dates are approximate and are based upon prompt receipt of all necessary information and factory conditions at the time of quotation. Seller shall not be liable for any failure or delay in the manufacture, shipment or delivery of products, or the performance of other obligations hereunder resulting from any cause beyond Seller's control, including, but not limited to fire, flood, earthquake, explosion, or other casualty or accident; acts of God, strikes, lockouts, or labor disputes; inability to procure or obtain delivery of parts, supplies, power, or personnel; war, civil disorder, riots, terrorism, insurrection or other violence; any law, order, regulation, ordinance, demand or requirement of any governmental agency; or any other act or condition whatsoever, foreseeable or not, beyond the reasonable control of the affected party.

Returns: No products may be returned for credit without the prior written consent of Seller, which consent may be withheld in its sole discretion.

Cancellations and Modifications: No contract is subject to cancellation or modification unless agreed to in writing by an authorized representative of Seller. In the event of any cancellation agreed to by Seller, and without limitation to other available remedies to Seller, Buyer shall pay Seller within thirty (30) days of such cancellation the contract price, including applicable taxes, for all articles, materials and services which have been completed prior to cancellation. Additionally, Buyer shall pay Seller within thirty (30) days of such cancellation all costs and other expenses incurred by Seller for uncompleted items (including without limitation all commitments to Seller's suppliers, subcontractors, and others) and a cancellation charge in an amount equal to twenty percent (20%) upon the total of the foregoing. In the event of any modification agreed to by Seller, Seller shall be entitled to revise its prices and delivery schedules to reflect such modification.

Terminations: Seller may terminate performance of work under any purchase order by providing thirty (30) days written notice of termination to Buyer. Seller will promptly advise of and invoice Buyer for the quantities of applicable work and material on hand or purchased prior to termination. Specifications: Specifications and instructions for any custom orders accepted by Seller are to be in accordance with directions from Buyer, and Buyer assumes full responsibility for the accuracy of all specifications, instructions and directions. Except as expressly requested by Buyer and agreed to in writing by Seller, all material shall be produced in accordance with Seller's normal and customary practices. All products, including those produced to meet exact Buyer specifications, shall be subject to normal and customary tolerances and variations consistent with usage of the trade concerning dimensions, draft angles, weight, packaging, composition and properties. Normal variations in surface finish, internal conditions, overall quality, or deviations from tolerances shall be consistent with practical testing and inspection methods.

Third-Party Rights: Buyer represents and warrants that it has full right and privilege to any design, plan or specification furnished to Seller in connection with the creation and/or processing of products for a custom order accepted by Seller, and to all patents, trade names, trademarks, copyrights, trade secrets and other intellectual property rights necessary to create and/or process the products in accordance with such custom order. Buyer shall indemnify and hold Seller harmless from and against all claims, demands, causes of action, expenses, damages, and suits, including, without limitation, costs of court and attorneys' fees, resulting from any claim against Seller or Buyer based on alleged violations of intellectual property rights of third parties arising out of such custom order. All supplies, designs, specifications, materials, tools, dies, gauges, molds, patterns, equipment and other items furnished by Buyer, either directly or indirectly, to Seller to perform or complete any custom order, or for which Seller has been reimbursed by Buyer, shall be and remain the property of Buyer, subject to any lien created by applicable law.

Quotations: Quotations are valid for (60) sixty days from date of the quote. Unit prices apply only to the specific quantity and delivery schedule quoted. Any variation to the quotation may necessitate a revision. Seller reserves the right to amend any quotation should such variations occur. Quotations, together with the attachments, exhibits, supplements in the quotation or other terms of Seller specifically referenced in any quotation, constitute the entire basis for the quote, with respect to the matters contained in the quote. There are no other promises, representations, or warranties by Seller to Buyer pertaining to the subject matter. No modification or addition to any quote shall be binding upon Seller unless presented in writing and signed by Seller.

Disclaimer of Warranties: Seller makes no warranties except as specifically set forth in a writing delivered with the products sold to Buyer or posted to Seller's website with respect to the types of products and purchasers set forth in the applicable warranty. SELLER MAKES NO OTHER WARRANTIES, GUARANTEES OR REPRESENTATIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER NEITHER MAKES NOR AUTHORIZES ANY OTHER PARTY TO ASSUME FOR SELLER ANY OTHER OBLIGATIONS OR LIABILITIES IN CONNECTION WITH THE PRODUCTS SOLD HEREUNDER. No representation or warranty, express or implied, made by any sales representative or other agent or representative of the Seller shall be binding upon the Seller.

Limitation of Liability: SELLER SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES DIRECTLY OR INDIRECTLY ARISING OR RESULTING FROM THE BREACH OF ANY OF THE TERMS HEREOF OR FROM THE SALE, HANDLING OR USE OF THE PRODUCTS SOLD. SELLER'S SOLE LIABILITY (AND BUYER'S EXCLUSIVE REMEDY) HEREUNDER, WHETHER FOR BREACH OF WARRANTY OR FOR NEGLIGENCE OR OTHERWISE, IS EXPRESSLY LIMITED TO THE REMEDY PROVIDED IN THE WARRANTY, IF ANY, OR IF NO WARRANTY APPLIES, THEN AT THE OPTION OF SELLER, TO: (A) THE REPLACEMENT AT THE AGREED POINT OF DELIVERY OF ANY PRODUCTS FOUND TO BE DEFECTIVE OR NOT TO CONFORM TO THE DESCRIPTION AND SPECIFICATIONS SET FORTH HEREIN, (B) THE REPAIR OF SUCH PRODUCTS, OR (C) THE REFUND OR CREDITING TO BUYER OF THE PRICE OF SUCH PRODUCTS.

Miscellaneous: The waiver by Seller of any term or provision of these Terms and Conditions of Sale or any breach of these Terms and Conditions of Sale shall not be construed as a waiver of any other term or provision or of any other breach, nor shall any such waiver be deemed or construed as a continuing waiver. Any provision of these Terms and Conditions of Sale prohibited by applicable law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof. The failure of Seller to insist in any one or more instances upon the performance of any of these terms and conditions or to exercise any right hereunder shall not be construed as a waiver of relinquishment of the future performance of any such terms and conditions or the future exercise of any such rights, but the obligations of Buyer with respect to such future performance shall continue in full force and effect. Buyer may not assign any rights under these Terms and Conditions of Sale without Seller's prior written consent.

Seller: As used herein, the term "Seller" means the seller of the products and services subject to

these Terms and Conditions of Sale, which will be one of the following corporations: (i) Spradling International, Inc. – South, an Alabama corporation, (ii) Spradling International, Inc. – East, a New Jersey corporation, or (iii) Spradling International, Inc. – West, a California corporation.

Applicable Law: All matters connected with any performance arising out of these Terms and Conditions of Sale and related documents, all applicable warranties, and each sale made pursuant hereto, shall be construed, interpreted, applied and governed in all respects by the laws of the State of Alabama. Buyer irrevocably consents to jurisdiction of the State of Alabama and its appropriate venue over any action, suit or proceeding arising hereunder. Without limiting the generality of the foregoing, Buyer agrees that any suit arising out of this order or the products created or processed pursuant to this order and all applicable warranties may be heard in the Circuit Court of Jefferson County or in any other court of appropriate jurisdiction in the State of Alabama.

Entire Agreement: There are no terms, conditions, understandings or agreements between Buyer and Seller other than those stated herein and all prior proposals and negotiations are merged herein. NO TERMS AND CONDITIONS IN ANY WAY ALTERING OR MODIFYING THE PROVISIONS HEREOF SHALL BE BINDING UPON SELLER UNLESS IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER. NO MODIFICATION OR ALTERATION OF ANY PROVISION HEREOF SHALL RESULT FROM SELLER'S ACKNOWLEDGEMENT OF BUYER'S PURCHASE ORDER, SHIPMENT OF MATERIAL OR OTHER AFFIRMATION ACTION BY SELLER TOWARD PERFORMANCE HEREUNDER FOLLOWING RECEIPT OF BUYER'S PURCHASE ORDER, SHIPPING ORDER, OR OTHER FORMS CONTAINING PROVISIONS, TERMS OR CONDITIONS IN ADDITION TO OR IN CONFLICT OR INCONSISTENT WITH THE PROVISIONS HEREOF.