

MOSS SUPPLY COMPANY  
GENERAL TERMS and CONDITIONS of SALE

1. All sales of goods and/or services by Moss Supply Company (hereinafter "Moss") are made in accordance with and subject to the terms and conditions set forth herein. Moss's provisions of credit, acceptance of any purchase order are expressly made conditional on Purchaser's assent to these terms and conditions. All orders must be submitted via email to [orders@MossSupply.com](mailto:orders@MossSupply.com), or via fax to 704-598-9012, or via Evolve on-line ordering system at [evolve@mosssupply.com](mailto:evolve@mosssupply.com). Evolve requires Purchaser to create an account for accessed. It is Purchaser's responsibility to order the correct series, size, color, etc., and specify any unusual information needed. Upon Purchaser's request, *Moss will provide an authorized hard copy order form.*
2. Purchase Orders submitted by Purchaser shall not be valid and binding upon Moss until Moss accepts the same in writing and issues a Purchase Order Acknowledgement (hereinafter "Acknowledgement") to Purchaser.
3. The Acknowledgement, together with these General Terms and Conditions, shall constitute the entire agreement (hereinafter the "Agreement") between Moss and Purchaser. Terms or conditions contained in any document issued by Purchaser that in any manner purport to alter, modify, change, suspend, contradict, or add to any term or condition contained herein are hereby rejected by Moss and Purchaser agrees that such rejected terms shall be deemed excluded from Purchaser's document.
4. The purchase price of the goods and services shall be due and payable in Charlotte, NC. Purchase Prices quoted on all Acknowledgements shall only be valid until the date stated in the Acknowledgement, time being of the essence. If Purchaser fails to accept delivery of all products and services and pay the full purchase price prior to said date, time being of the essence, Moss shall have the exclusive right to adjust the Price on any or all products or services included in said Acknowledgement, or at Moss' discretion to cancel the Purchase Order and Acknowledgement.
5. Except as set forth in this paragraph, Purchaser cannot modify, cancel, or otherwise alter the Agreement without Moss's written consent. Any returns of material must be approved in advance by Moss, and all returned material must be in its original container and unaltered. If Purchaser changes or cancels an order after it has been submitted to Moss, (i) If production has begun, Purchaser shall pay a prorated charge for work completed as determined in Moss' exclusive discretion, or (ii) If production is complete, Purchaser shall pay full quoted selling price plus any other charges that may apply.
6. Terms of all shipments of goods shall be as set forth on the Acknowledgement. On all common carrier shipments risk of loss or damage in transit shall be borne by Purchaser, and any claims therefore shall be made directly with the common carrier. Purchaser shall indemnify and hold Moss harmless from and against any claims, damages or liabilities suffered by Moss resulting from any acts or omissions of the common carrier or Purchaser. All products picked up by Purchaser shall be F.O.B. Moss's facility, and Purchaser shall bear all risk of loss or damage to products, Purchaser's property, or Purchaser and its employees and agents from and after pick-up. Furthermore, Purchaser hereby waives and agrees to indemnify and hold Moss harmless from any and all claims, causes of action, demands, and complaints for damages or liabilities to such products, Purchaser's property, or Purchaser and its employees and agents suffered by Moss from and after such goods are picked up by Purchaser.
7. Subject to specific manufacturing specifications, Moss warrants that the goods and services furnished hereunder shall meet the specifications set forth on the face of the applicable Moss Warranty and Moss Acknowledgement. Moss makes no other warranties, express or implied. **MOSS EXCLUDES ALL WARRANTIES INCLUDING WITHOUT LIMIT WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
8. Delivery dates are approximate. Moss shall not be responsible for non-shipment of goods or delays in delivery or performance due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of war or terrorism, acts of Purchaser, strikes or other labor disturbances, Moss's inability to obtain fuel, raw materials or parts, delays in transportation, repairs to equipment, fires, accidents, pandemics, regulatory or government action, or any other cause beyond its control. Acceptance of goods upon delivery shall constitute a waiver by Purchaser of any claim for damages on account of non-shipment or delays in delivery or performance.
9. Purchaser must thoroughly inspect all items before signing the delivery receipt and any damaged merchandise must be refused and returned on the same truck for repair or replacement at Moss' discretion according to the enclosed warranty. Reshipment will be made at the next available time. Moss shall not be responsible for any damages or shortages reported after delivery. Failure or refusal by Purchaser to receive shipment for reason other than defective goods will result in a \$100.00 re-delivery fee. All claims against Moss for shortages, quality, damages, or for goods that do not conform to specifications must be submitted to Moss within ninety (90) days of

delivery of goods to the first destination to which they are shipped. Purchaser agrees to immediately allow Moss an opportunity to inspect such goods. Goods for which damages are claimed shall not be returned, repaired, or discarded without Moss's prior written consent. Purchaser's exclusive remedy against Moss, and Moss's sole obligation for any and all claims, whether for breach of contract, warranty, tort (including negligence), or otherwise, shall be limited to Moss's replacing goods that do not conform to the Agreement or, at Moss's option, refunding the purchase price. In no event shall Moss have any liability for damages in an amount exceeding the purchase price of the goods and/or services sold hereunder, nor shall Moss have any liability for Purchaser's material or labor costs, alternate purchases, extra freight, overhead, lost profit, good will or any incidental or consequential damages.

10. Any credit extended or denied to Purchaser shall be in the exclusive discretion of Moss. If Purchaser's credit becomes impaired Moss may, in its sole discretion, (a) cancel any existing Purchase Order and Acknowledgement, or (b) demand immediate full payment for any existing or future Purchase Order and suspend performance until such time as Moss has received full payment for any goods and/or services already delivered or in process. If Moss suspends performance and later proceeds with such order, Moss shall be entitled to adjust the purchase price and to such extension of time for performance as is necessitated by the suspension.

11. All taxes of any kind levied by any federal, state, municipal or other governmental authority, with respect to the production, sale, or shipment of goods and/or services sold to Purchaser shall be paid by and be the sole responsibility of Purchaser.

12. Checks or payments, whether full or partial, received from or for the account of Purchaser, regardless of writings, legends, or notations upon such checks or payments, and regardless of other writings, statements, or documents, shall be applied by Moss against any amount owing by Purchaser with full reservation of all of Moss's rights, and such action by Moss shall not be deemed an accord and satisfaction of Purchaser's liability.

13. Any returned goods which are approved and accepted by Moss as defective or incorrect which Moss, in its sole discretion, elects to replace, will be replaced (a) if purchased from stock material using other stock material, or (b) if purchased from fabricated materials, using other fabrication materials subject to ongoing production schedules.

14. Unless specified otherwise in the Acknowledgement, Moss shall have exclusive discretion regarding the source of all materials, parts, and supplies, and the methods of fabrication.

15. Any designs, drawings, or specifications related to any products ("Confidential Information") produced by Moss and delivered to Purchaser for any reason is the confidential work product of, and wholly owned by, Moss and are for illustrative purposes only. In consideration for Moss sharing this Confidential Information with Purchaser, Purchaser agrees that said Confidential Information (i) is for internal use of Moss and its employees only, (ii) is not intended to be relied upon or used by any other person or entity for fabrication or manufacture of any specific goods or products, (iii) it shall not be disseminated to any person or entity without the prior written permission of Moss, (iv) it shall not be copied or duplicated in any manner, (v) it shall be returned to Moss or destroyed within three (3) days of any instructions to do so by Moss, (vi) Purchaser shall not use or attempt to use the Confidential Information for its own benefit or for any other purposes without the prior written consent of Moss.

16. In the event Purchaser fails to make payment of any amounts due and owing to Moss (including any applicable surcharge or freight charge), Moss shall have the right to terminate any Acknowledgement (or any unfulfilled portion thereof), and any other agreement between Moss and Purchaser. If any required payment or installment thereof is not paid on the stated due date, time being of the essence, with regard to such payment, interest shall be charged upon the entire outstanding balance owed at the rate of one and one-half (1.5 %) percent per month. Moss shall have the right to employ an attorney or other representative to collect the balance due, and Purchaser agrees to pay all collection costs incurred by Moss, including without limit its reasonable attorneys' and other professional fees, and costs.

17. This agreement shall be governed by and enforced pursuant to the law of the state of North Carolina. Moss and Purchaser consent to the exclusive jurisdiction of the courts of said state for any litigation which arises out of or is related to this Agreement, and waive all objections to venue of any such action. All causes of action, claims, demands, complaints, conflicts, or disputes, arising out of or related to the Agreement (including without limit these General Terms and Conditions, and the Acknowledgement) shall be resolved at the request of either party by binding arbitration under the rules of the American Arbitration Association in Charlotte, North Carolina.

18. Moss reserves the right to enforce this Agreement at any time or not at all. Moss' right to enforce any provision shall not be waived unless such waiver is in writing signed by a duly authorized officer of Moss. All rights and remedies granted herein are in addition to all remedies available at law or in equity.