

TERMS AND CONDITIONS

- Delivery Dates and Prices:** All delivery and shipment dates indicated on the face hereof are approximate and subject to Seller's availability schedule. Seller will make reasonable efforts to meet the delivery date(s) quoted. If a specific delivery date has been agreed upon, the customer must ensure that the Seller receives in sufficient time, any drawings, drafts, or other design material prepared by the Seller for the processing of the order. However, Seller will not be liable for its failure to meet the delivery date(s) or for any delay in performance hereunder due to unforeseen circumstances or shortages, due to causes beyond its control, or due to its voluntary or mandatory compliance with any governmental act, regulation, or request. If the price is stated by reference to a published price list, then the price shall be the price on the published price list in effect at the time Seller receives Buyer's purchase order; However, if any Product is ordered prior to the effective date of a published price change and the delivery.
- Packing and Loss or Damage in transit:** Products will be packed for shipment in a manner suitable to the method of shipment specified by Buyer, or to the method selected by Seller in the absence of instructions. Unless otherwise indicated on the face hereof, all sales hereunder are f.o.b. shipping point, and all risk of loss or damage to equipment in transit is upon Buyer.
- Payment Due For Partial Deliveries:** Seller may, unless specifically directed not to by the Sales contact, deliver any portion of the Products ordered, regardless of utility to Buyer in the absence of the undelivered portion, and all such partial deliveries shall be accepted and paid for in accordance with the terms of Paragraphs 4 and 5 below. The making of a partial delivery that, to any extent, is not in accordance with the contract of sale shall not affect the Buyer's obligation hereunder to remit payment.
- Inspection, Acceptance and Return of Products:** Buyer shall inspect the Products immediately upon receipt and within five (5) business days after receipt, give written notice to Seller of any claim for shortage or that the Products do not conform to the terms of the contract of sale. If Buyer shall fail to give such notice, the Products shall be deemed accepted and to conform with the terms of the contract of sale, and Buyer shall be bound to pay for the Products in accordance with the terms of Paragraph 5 below. Return of Products, defective or otherwise, will not be accepted by Seller without (i) written notification from buyers to Seller within 30 days of receipt of invoice and (ii) receipt of a return material authorization number from Seller authorizing such of return. Products authorized to be returned shall be shipped f.o.b. destination, freight pre-paid. When return of nonconforming goods has been accepted by Seller, conforming shipment may be made in accordance with Paragraph 1 above and Paragraph 8 below without further liability on Seller's part. Buyer will be liable for restocking charges in the event Products are returned to the Seller which are not defective and are in accordance with these terms. When a trade-in is authorized by Seller, Buyer shall ship f.o.b. destination, freight pre-paid, material or equipment so authorized for trade-in, to Seller's specified location.
- Payment and Credit Terms:** Standard terms are net 30 days, pending credit approval. American Express, Visa and MasterCard accepted. Shipping is F.O.B. Stamford, CT or Sun Valley, CA. Lex Products will extend credit to approved customers who complete the credit application set forth below. By completing a credit application, customer is requesting that Lex Products sell goods on account. Merchandise returns must be prearranged and may be subject to a 15% restocking fee. Due to fluctuations in the price of copper, prices are subject to change without notice. There is no minimum order. Unless otherwise indicated on the face hereof, Buyer agrees to remit payment in full to the address provided on the face of Seller's invoice for all shipments including shipment of any partial portion of the Products ordered, upon receipt of invoice. Account balances not paid in accordance with these terms are subject to the maximum prevailing legal interest rate calculated from date of delinquency. In the event Seller finds it necessary to refer an account to an attorney or an agent for collection of delinquent accounts, Buyer shall pay all costs of collection including, without limitation, reasonable attorneys' fees. Should Buyer become delinquent in the payment of any sum due hereunder, or, if Buyer becomes insolvent, or if any proceedings are commenced under any bankruptcy or similar laws for Buyer's reorganization or other debt adjustment, Seller will not be obligated to continue performance. Seller reserves the right to change the credit terms provided herein when, in Seller's opinion, the financial condition or previous payment record of Buyer so warrants. If, within thirty (30) days of receipt of written notice of such charge, Buyer fails to agree and comply with different terms of credit, and/or fails to give adequate assurance of due performance. Seller may (a) by notice to Buyer, treat such failure or refusal as repudiation by Buyer of the portion of the purchase order not then fully performed, whereupon Seller may cancel all further delivery and any amounts unpaid hereunder shall immediately become due and payable; or (b) make shipments under reservation of a demand for advance payment or payment against tender of documents of title, Buyer's acceptance of delivery of any Products shall constitute a representation that Buyer is solvent.
- Taxes:** Purchase prices do not include, excise or similar taxes, which, shall be paid by Buyer. When required by the appropriate taxing authorities, Seller may collect from Buyer appropriate amounts of sales tax and will remit same to the taxing authority.
- Warranty:** Lex Products warrants the products it manufactures to be free from defects of material or workmanship for a period of one year from date of shipment. Those products and/or components not manufactured by Lex Products shall be subject only to the warranty extended by the original manufacturer. Lex Products' warranty is restricted to the repair or replacement, at Lex Products option, of any part which proves to be defective and for which claim was made in writing prior to the expiration date of the warranty. This warranty does not apply to any defect arising from accident, misuse, unauthorized repair or negligent use. This warranty does not apply to normal wear and tear. **SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- 8. Exclusive Remedies:** THE REMEDIES PROVIDED HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER BASED ON CONTRACT, TORT STRICT LIABILITY OR OTHERWISE, ARISING OUT OF THE DESIGN, MANUFACTURE, SALE, DELIVERY, OR USE OF THE PRODUCTS.
- Patent Indemnity:** Seller agrees to defend at its own expense, any suit or legal proceeding which may be brought against Buyer alleging infringement by Buyer of any patent of the United States, as a result of Buyer's use of the Product sold hereunder for its intended purposes, provided that Buyer shall give Seller prompt written notice of any claim, threat, or institution of any such suit or legal proceeding, and provided further that Seller shall then have the sole right to control and conduct the defense and/or settlement of such claim, threat, suit or legal proceeding, either in the name of Seller or Buyer or both, and Buyer shall, at Seller's request and expense, provide relevant information and reasonable cooperation. Seller shall pay all final judgments and all costs and attorney's fees assessed against Buyer in any such suit or legal proceeding, provided Buyer has complied with the conditions hereof with respect to prompt notice and cooperation in connection with such suit or legal proceeding and given exclusive control thereof to Seller Notwithstanding the foregoing, Seller shall not be liable for any attorney's fees or other legal expenses incurred by the Buyer without the knowledge and prior written consent of Seller. Seller shall have the right, at its own expense to procure for Buyer the right to continue using the Product claimed to infringe, replace said Product with an equally satisfactory non-infringing Products, modify said Product so that it becomes non-infringing, or remove such Product and refund the purchase price thereof less a reasonable amount for use, damage or obsolescence.
- Modification of Terms:** BUYER'S ACCEPTANCE OF ANY QUOTATION IS EXPRESSLY SUBJECT TO BUYER'S ASSENT TO EACH AND ALL OF THE TERMS AND CONDITIONS SET FORTH IN SELLER'S QUOTATION, AND BUYER'S ASSENT TO THESE TERMS AND CONDITIONS OF SALE SHALL BE CONCLUSIVELY PRESUMED FROM BUYER'S SUBMISSION OF ITS PURCHASE ORDER. NO ADDITION TO OR MODIFICATION OF SAID TERMS AND CONDITIONS SHALL BE BINDING UPON SELLER UNLESS SPECIFICALLY AGREED TO BY SELLER IN WRITING. IF BUYER'S PURCHASE ORDER OR OTHER CORRESPONDENCE CONTAINS TERMS OR CONDITIONS CONTRARY TO OR IN ADDITION TO THE TERMS AND CONDITIONS CONTAINED HEREIN OR IN SELLER'S QUOTATION, ACCEPTANCE OF ANY ORDER BY SELLER SHALL NOT BE CONSTRUED AS ASSENT TO SUCH CONTRARY OR ADDITIONAL TERMS AND CONDITIONS OR CONSTITUTE A WAIVER BY SELLER OF ANY OF THE TERMS AND CONDITIONS CONTAINED HEREIN OR IN SELLER'S QUOTATION. SELLER'S ACCEPTANCE OF BUYER'S PURCHASE ORDER IS EXPRESSLY CONDITIONED ON BUYER'S ASSENT TO THESE TERMS AND CONDITIONS AND NO MODIFICATION OR WAIVER OF THESE TERMS AND CONDITIONS IS VALID. UNLESS CONFIRMED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF SELLER.
- Authority to Export:** ALL ORDERS ACCEPTED FOR EXPORT (AND/OR RE-EXPORT) IS SUBJECT TO 1) UNITED STATES GOVERNMENT EXPORT REGULATIONS; AND 2) BUYER PROVIDING SELLER WITH ALL DOCUMENTATION NECESSARY FOR SHIPMENT TO THE DESTINATION COUNTRY.



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