

Terms and Conditions

1. The Agreement. The Agreement is based on ACI's relationship with Buyer and the special trust and confidence that ACI places in Buyer's skill, expertise, and independent judgement. The Agreement is between Seller and Buyer with respect to the sale of Product (the "Product") shall consist only of these terms and conditions, the personal guarantee, and the Parties' agreement on price and quantity. Seller shall not be bound by the terms of any form or purchase order offered by Buyer. This Agreement shall be for the sole benefit of Seller and Buyer and not for the benefit of any other person. Prior courses of dealing, trade usage and verbal agreements that to add to or subcontract from the Agreement shall not be binding on Seller. There are no agreements, promises or understandings, either verbal or written that are not fully expressed herein.
2. Price and Payment. Prices quoted by Seller are valid for 30 days from the date on the purchase order containing the price and thereafter expire unless accepted in writing by Buyer before said date. All prices are subject to price escalation by manufacturers on backordered products. Payment shall be due to Seller by the tenth (10th) day of the month following the date of invoice. Payment terms are 1% 10 days/ net 30. Overdue balances shall be charged interest at the rate of 1.5% per month. If a shipment is delayed at the request of Buyer, payment shall become due on the date that Seller is prepared to make shipment. Prices are F.O.B. Seller's shipping point unless otherwise agreed upon in writing.
3. Delivery. Buyer shall inform Seller of the delivery address at the time of sale so that the transportation charge can be computed in the sales price. If the shipping destination involves a construction project covering a large area, and Buyer does not inform Seller of the specific drop off point at the project, Seller reserves the right to charge \$85 per hour for trucking time spent between arrival at the project and arrival at the unloading point at the project. If the Product is delivered by truck, Buyer shall have no more than 30 minutes to unload the Product from the truck from the time that the truck arrives at the delivery address. Otherwise, Buyer shall pay \$85 per hour until the Product is unloaded from the truck. Delivery dates are not guaranteed but are estimated on the basis of immediate receipt by Seller of all information to be furnished by Buyer and the absence of delays, direct or indirect, resulting from or contributed to by circumstances beyond Seller's reasonable control. Seller shall in good faith endeavor to meet estimated delivery dates. Seller reserves the right to withhold delivery of the Product if, for any reason, Buyer fails to pay to Seller any portion of the purchase price for the Product(s) in the amount(s) and at the time(s) specified.
4. Rights to Reject and Revoke. Buyer shall notify Seller in writing of any defects in, damage to, or nonconformance of the Product within three (3) business days from Buyer's receipt of the Product, otherwise Buyer waives its right to reject the Product. Thereafter, Buyer shall be deemed to have accepted the Product and may revoke its acceptance of the Product only if both: (1) a non-conformity substantially impairs the value of the Product to Buyer, and (2) Seller is notified in writing of Buyer's revocation within thirty (30) days after the Product has been received by Buyer.
5. Risk of Loss. Buyer assumes all risk of loss of Product upon delivery of Product by Seller to a carrier.

6. Termination or Modification. The Agreement may be modified or terminated only upon a writing signed by seller. If all or part of the Agreement is terminated by the Buyer, Buyer shall pay seller's termination charges based upon Seller's actual expenses and costs incurred plus a change of 20% of the price(s) of the product(s) that were cancelled. Any Product delivered prior to Buyer's written notice of termination shall be paid in full by Buyer.
7. Limited Warranty. Seller warrants that all Product: (1) conforms to the Seller's specifications for that Product that are in effect on the date of shipment or conforms with the description contained in a purchase order submitted by the Buyer and accepted by the Seller, (2) conforms to Buyer's PO stating the products' specifications, and (3) is merchantable. The Seller's liability for any breach of this warranty will be limited to Seller's refund of Buyer's payment(s) or replacement of the non-conforming products or services.
 - a. THIS WARRANTY IS THE EXCLUSIVE WARRANTY. SELLER MAKES NO OTHER WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, OR FITNESS FOR A PARTICULAR PURPOSE.
8. Limitation of Liability. Buyer hereby waives any right it might otherwise have to seek consequential damages from Seller, including delay damages. Seller's maximum liability to Buyer for any and all claims and causes of action whether it be breach of contract, breach of warranty, negligence or indemnification, but not including intentional torts, shall be limited to and shall not exceed the amount of money that Buyer previously paid to Seller concerning the Product at issue in the dispute, or replacement of the Product, whichever Seller chooses at its sole discretion. If Buyer desires a higher liability limitation amount or removal of the liability limitation amount altogether, Buyer should contact Seller prior to the sale and a higher Product sales price will be negotiated. Seller shall not be responsible for any defect in Product that is created after the Product is shipped from Seller, including Product subjected to misuse, misapplication, neglect, accident or improper handling or storage or which has been altered or misbranded by anyone other than Seller or its authorized representative or modifications to or adaptations of the Product made by Buyer or others. In addition, Seller shall not be liable for any claim of a non-conforming Product unless such claim is made within thirty (30) days after such Product has been delivered to the Buyer.
9. Time Limit for Lawsuit. Any lawsuit filed by Buyer against Seller must be filed no later than one year after Buyer's purchase of the Product at issue or be barred.
10. Governing Law/Venue/Attorney Fees and costs. Any dispute, claim or controversy arising out of, or between the Parties concerning this Agreement shall be governed by the law of the State of Washington; venue for a lawsuit shall be in King County, Washington; and the prevailing party shall be entitled to an award of reasonable attorney fees and costs, including costs and attorneys fees necessary to enforce and collect upon any judgment.