



## Northern Wings Standard Terms and Conditions for Sales

This document lists standard terms and conditions invoked by Northern Wings in all transactions where Northern Wings (hereafter referred to as "Seller") is the provider of goods or services to another party (hereafter referred to as "Buyer"). These terms and conditions shall apply to all sales unless superseded by specific agreement between Seller and Buyer, in which case those agreements shall take precedence.

**Seller's Terms and Conditions of Sale:** All orders are expressly conditioned on Buyer's assent to Seller's sales and credit terms only and not to terms and/or conditions appearing on Buyer's purchase order or contract. Buyer waives any right to object to these terms and conditions. Buyer's assent to these terms and conditions shall be evidenced by acceptance of any shipment. Seller's failure to object to terms contained in any communication from Buyer shall not be deemed to be a waiver of the terms and conditions contained herein.

Said **Terms and Conditions** are set forth as follows:

- 1. Net Prices:** All prices are subject to change without notice. Posted price supersedes and cancels all previous price lists. Prices are F.O.B. shipping point (origin).
- 2. Minimum Order:** Specific order minimums shall be determined on a case-by-case basis and shall be communicated to the Buyer prior to acceptance of the Buyer's purchase order.
- 3. Telephone Calls:** Seller will accept only paid phone calls. Seller will NOT accept responsibility for any errors made in telephoned or oral instructions. To avoid any errors, a confirming purchase order must be mailed, faxed or emailed to Seller. Preferred method of communication is via email.
- 4. Terms of Payment:** Terms are net thirty (30) days. A 1.5% monthly carrying charge will be added to all past due accounts, beginning the thirty-first (31st) day from date of invoice. Shipments can be made C.O.D. or cash in advance prior to credit approval. All invoices are payable in U.S. funds. Please pay from invoice.
- 5. Cancellations:** Buyer may not cancel any order without Seller's prior written approval and will be subject to charges for expenses incurred and work executed by Seller or our suppliers.
- 6. Shipment:** Shipment will be made F.O.B. origin at which time risk of loss shall pass to Buyer. Seller reserves the right to select means and route of shipment if specific instructions are not included with order, and Buyer waives any right it may have to notification of shipment. Seller may in its discretion make partial shipments. All shipments weighing over 200 lbs. will be made via motor truck unless otherwise specified. Shipments weighing 200 lbs. or less will be made via



package carrier. Seller will endeavor to ship merchandise within the specified time; however, Seller does not guaranty delivery.

- 7. Risk of Loss and Deliver Title:** Liability for loss or damage passes to Buyer on delivery. Delivery of goods by the Seller to the carrier at the shipping point constitutes delivery to Buyer. Title to goods shall pass to Buyer subject to Seller's right of stoppage in transit to secure payment of the purchase price for the goods.
- 8. Force Majeure:** Seller shall not be liable for any delay in performance or for non-performance, in whole or in part caused by the occurrence of any contingency beyond the control of Seller or Seller's suppliers, including but not limited to, war, sabotage, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or agency thereof affecting the terms of this contract, judicial action, labor dispute, accident, fire, explosion, flood, storm or other Act of God, shortage of labor, fuel, raw materials, tools, dies or equipment or technical failure. Any such delays shall excuse Seller from performance, and Seller's time for performance shall be extended for the period of delays and for a reasonable time thereafter. In no event shall Seller be liable for direct, indirect, special, incidental or consequential damages for any delay or non-performance.
- 9. Multiple Shipments - Separate Contracts:** If the contract provides for, or if Seller elects to make, multiple shipments or deliveries, each such shipment or delivery shall be construed as a separate sale. Buyer agrees to accept and pay for each such shipment or delivery. Should Buyer fail to accept and pay for each shipment or delivery, Seller may without prejudice to any other lawful remedy defer further shipments or deliveries until acceptance thereof by Buyer or until payment is made by Buyer. Seller may at its sole discretion without liability whatsoever terminate this contract as to any unaccepted or undelivered portion thereof, as well as any other outstanding contract with Buyer. Buyer shall be responsible for any expenses and losses sustained by Seller by so doing.
- 10. Shortages:** Shortages or errors made in filling an order must be reported to Seller within ten (10) days of delivery or Seller may not honor them. Before claiming a shortage, Buyer must verify that no containers were received in damaged condition.
- 11. Loss or Damage:** For orders shipped F.O.B. origin freight collect, any claims must be filed by the consignee direct with the carrier. Under no circumstances should freight be refused by Buyer. Buyer is to verify that the correct number of pieces is received prior to signing the freight bill. Buyer must make note on the freight bill any visible damage to pieces received.



- 12. Claims and Allowances:** Seller shall not be liable for manufacturing defects for goods which pass without objection in the trade under the contract description or for goods which are of fair or average quality. Claims of any kind or nature, except for latent defects, are specifically barred unless made in writing by registered mail within thirty (30) days after delivery to Buyer. Seller's limit of liability for defective merchandise shall be the difference in value on contract date of delivery between goods specified and goods actually delivered. The limit of Seller's liability for non-delivery shall be the difference, if any, between the contract price and the fair market price on the contract date of delivery of the goods to be delivered. In no event shall Seller be liable for direct, indirect, special, incidental or consequential damages for any delay or non-performance.
- 13. Returned Goods:** All returned goods must have a Return Material Authorization (RMA) number assigned by Seller. No returned goods will be accepted without an RMA number. No items for return will be accepted beyond six (6) months from date of shipment, or if an overstock situation exists at the time of request. Customer must supply Seller with invoice number and purchase order number from which shipment was made. All ORIGINAL certifications, documents and trace paperwork must accompany the return or credit will not be issued. All returned goods must pass a receiving inspection before credit will be issued. Returned goods must be received within ten (10) days of the date the RMA was issued in order to receive credit.
- 14. Termination:** Seller may cancel this contract in the event of Buyer's breach. Seller may also cancel this contract on occurrence of any of the following: insolvency of Buyer; filing by Buyer of a voluntary petition of bankruptcy; filing of an involuntary petition to have Buyer declared bankrupt; appointment of a receiver or trustee for Buyer; execution by Buyer of an assignment or composition arrangement for the benefit of creditors; filing of a voluntary or involuntary petition for corporate reorganization of Buyer; or initiation by any party for any other proceeding involving Buyer as debtor under the Bankruptcy Act, as amended. In the event of any cancellation under this paragraph, Seller without prejudice to any other rights available to it for breach of this contract shall have the right: (i) to refuse to deliver any additional goods; (ii) to recover from Buyer the contract price of all goods delivered and for freight, storage, handling and other expenses incurred by Seller; or (iii) to sell elsewhere and charge Buyer with any resultant damages.
- 15. Warranty - General:** Seller warrants to Buyer all goods, if properly installed, used only for uses and in the manner recommended by Seller, and not damaged from any external cause, against defective workmanship and material for the warranty period specified in the specification sheet for each item, but in no event longer than **six (6) months from date of shipment**; provided that any defect has not been caused by misuse, careless handling, or where repairs have been made



or attempted by parties other than Seller. See Returned Goods section for specific instructions. Seller's warranties extend to Buyer and to no other person.

- 16. Limitation of Warranty:** No claim under the above warranty shall be honored unless (i) it is submitted to Seller in writing within thirty (30) days after discovery and on or before the thirtieth (30th) day after expiration of the warranty period, and (ii) Buyer shall cease to use the goods and give Seller a full written report supporting its claim. If Seller finds the equipment to be defective, the Seller will repair or replace it without charge and bear the cost of transportation for the defective goods. Except as provided by this paragraph, Seller shall not be liable for any labor, transportation or other expense required to replace or repair defective goods nor in any event for any direct, indirect, special, incidental or consequential damages arising out of or occasioned by a defect or failure of any goods sold to Buyer, nor for any loss arising from the use or resale thereof. **SELLER PROVIDES NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION OF THE GOODS CONTAINED IN THIS CONTRACT.**
- 17. Limitation of Damages/Action:** Seller's liability with regard to the goods and/or this contract for any claims, costs, damages, losses, and expenses for which it is or may be legally liable, whether arising in negligence or other tort, contract, or otherwise, shall not exceed the price for the goods. In no event shall Seller be liable for direct, indirect, special, incidental or consequential damages for breach of any of the provisions of this contract. No action can be brought by Buyer more than one year from the date of delivery of the goods to Buyer.
- 18. Limitation of Remedies:** Buyer's exclusive remedies with respect to the goods shall be the repair of defective goods or, in the event the goods cannot be repaired, the refund of the purchase price or replacement of defective goods, whichever Seller so chooses at its sole option.
- 19. Patent Infringement:** If any merchandise shall be sold by Seller to meet Buyer's particular specifications or requirements and is not part of Seller's standard line offered to the trade generally in the ordinary course of Seller's business, Buyer agrees to indemnify, defend, protect and hold Seller harmless against any and all suits at law or equity and from any and all loss, damage, claims and demands for actual or alleged infringement of any United States or foreign patents, and to defend any suit which may be brought against Seller for any alleged infringement because of the sale of the merchandise ordered by Buyer. In the event Buyer fails to defend Seller, Buyer shall be responsible for all of Seller's attorney fees, costs of defense, expert witness fees and other litigation related expenses.
- 20. Attorney's Fees:** If Seller seeks to enforce any of the terms hereof due to Buyer's breach, Buyer shall pay Seller's reasonable attorney's fees and expenses.



- 21. Assignment:** This contract is binding upon and inures to the benefit of the parties and the successor and assigns of the entire business and goodwill of Seller or Buyer, but will not otherwise be assignable by Buyer; except that Seller may assign the proceeds of this contract. Nothing in this contract shall inure to the benefit of or be deemed to give rise to any rights in any third party.
- 22. Applicable Laws:** This contract is made and to be performed in the State of Michigan. Unless otherwise specifically agreed, this contract and any dispute thereunder shall be governed by the laws of the State of Michigan.