

GROSCHOPP TERMS & CONDITIONS OF SALE

1. **Governing Terms.** These Terms and Conditions of Sale ("Terms") apply to and govern the sale by Groschopp of all products ("Products") to Buyer and the performance by Groschopp of all services ("Services") for Buyer, unless otherwise agreed in a written agreement signed by Groschopp and Buyer. Groschopp offers to sell Products and/or provide Services solely pursuant to these Terms and any acceptance is expressly limited to these Terms. If Buyer has ordered Products or Services from Groschopp and such order is deemed to be an offer, Groschopp's acceptance of such offer is expressly conditioned on Buyer's assent to these Terms. Any additional or different terms proposed by Buyer in any offer, acceptance or confirmation are requests for material alterations of these Terms and are rejected by Groschopp. These Terms control over any course of dealing, course of performance or usage of trade.
2. **Prices.** The prices for Products and Services are those contained in Groschopp's quote to Buyer or, if there is no quote, in Groschopp's price list; provided, however, Groschopp may change its prices at any time upon notice to Buyer. In addition, if the price of fuel, metals, materials or other production items increases, Groschopp may impose a surcharge for all affected Products and Services. Unless the parties otherwise agree in writing, the prices for the Products and Services do not include any taxes or customs duties, which will be paid by Buyer in addition to the prices for Products and Services.
3. **Payment.** All payments for Products and Services are due thirty (30) days from the date of invoice, unless otherwise specified by Groschopp. Upon the request of Groschopp, Buyer will provide financial information to Groschopp for Groschopp to determine whether to extend credit to Buyer hereunder. Groschopp, at any time, may change or withdraw Buyer's credit or impose security or other arrangements to secure Buyer's payment of the purchase price. All amounts past due will incur a late charge of 1.5% per month or the highest rate permitted by law, whichever is less. To secure payment by Buyer, Buyer grants Groschopp a first priority security interest in all Products sold to Buyer until the date the invoiced amount for such Products has been paid. If Products or Services covered by these Terms are not delivered or performed at one time, each shipment will be considered an independent transaction.
4. **Title; Delivery.** Unless otherwise agreed in a writing signed by Groschopp, all Products are sold FOB, Freight Collect, at Groschopp's facility or, if applicable, Groschopp's contractor's facility. Title to, and risk of loss of, Products will pass to Buyer upon delivery to the carrier at Groschopp's facility or Groschopp's contractor's facility, as is applicable. Groschopp will use commercially reasonable efforts to deliver Products or Services on or before the scheduled shipping or delivery date for such Products or Services.
5. **Acceptance.** Buyer will have seven (7) days after Buyer's receipt of a delivery or shipment of Products or Services to determine whether such Products or Services conform to the requirements of these Terms. Buyer will be deemed to have accepted the Products or Services unless Buyer notifies Groschopp in writing of any defect within such seven-day period.
6. **Cancellation.** Buyer may not cancel or change an order for Products or Services, except as provided in this section. If Buyer at any time cancels or changes an order for Products or Services, Buyer will reimburse Groschopp for all work-in-process, materials, subcontractor costs, vendor costs, internal labor costs, and any other costs of Groschopp associated with the cancelled or changed order. In the event an order is cancelled or changed within sixty (60) days of the scheduled shipping or delivery date, Buyer will also be liable to Groschopp for lost profits and any other consequential and other damages incurred by Groschopp as a result of such cancellation or change.
7. **Breach.** Any one of the following acts by Buyer will be a material breach of Buyer's obligations: (a) Buyer fails to make full payment for any Products or Services when due; (b) Buyer fails to accept conforming Products or Services; (c) the filing of a voluntary or involuntary petition in bankruptcy against Buyer, Buyer's insolvency, or an assignment for the benefit of creditors of Buyer; or (d) Buyer's failure to provide adequate assurance of performance within ten (10) days after a justified demand by Groschopp. In the event of a breach, Groschopp, in addition to all other rights or remedies hereunder or at law or in equity and without liability to Buyer, may terminate its obligations by written notice to Buyer. Buyer will pay all costs, including reasonable attorneys' fees, incurred by Groschopp in enforcing these Terms.
8. **Force Majeure.** Groschopp will not be liable for any cause beyond its control, including but not limited to acts of God, acts of civil or military authority, fires, epidemics, floods, riots, wars, terrorism, sabotage, labor disputes, governmental actions (including inability or delay in obtaining governmental authorizations), or inability to obtain sufficient materials, labor, components, energy, manufacturing services, facilities or transportation on commercially reasonable terms. In the event of any such delay, the date of delivery or performance hereunder will be extended accordingly.

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9. Limited Warranty. Groschopp warrants to Buyer that, for a period of one (1) year from the date of invoice, Products delivered under these Terms (a) will comply substantially with the specifications, if any, agreed upon by Groschopp and Buyer in a signed writing and (b) will be free from defects in material and workmanship under proper use, service and conditions. This warranty will not apply to any (i) Services or (ii) Products delivered as samples, prototypes or design verification units, all of which are sold "AS IS," "WITH ALL FAULTS" and with no warranty. In addition, Groschopp will have no liability for the failure of any Product to conform with this warranty if such failure is caused by accident, abuse, misuse, neglect, alteration, improper installation or repair, inadequate maintenance, improper testing, normal wear and tear, use contrary to any Product specifications or instructions issued by Groschopp, or Groschopp's compliance with any designs, specifications or instructions provided by or for Buyer (each, a "Disqualifying Cause").

If, during the warranty period, (a) Buyer notifies Groschopp promptly in writing upon discovery that a Product does not conform to this warranty, including a detailed description of such nonconformance, (b) Buyer returns the Product prepaid to Groschopp accompanied by Groschopp's Returned Goods Authorization form and the purchase order number, part number and order date of the Product, and (c) Groschopp confirms to its satisfaction that the Product does not conform to this warranty and that the failure of the Product to so conform is not caused by a Disqualifying Cause, then Groschopp, at its sole option, will repair the Product, replace the Product or credit Buyer the purchase price of the Product. Replacement Products, parts and repairs are warranted for the remainder of the original Product's warranty period.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY CONSTITUTES GROSCHOPP'S EXCLUSIVE LIABILITY AND OBLIGATION, AND BUYER'S EXCLUSIVE REMEDY, FOR ANY BREACH OF WARRANTY OR OTHER DEFECT OR NONCONFORMITY OF PRODUCTS. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. GROSCHOPP MAKES NO OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, OR THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. GROSCHOPP DOES NOT EXTEND THIS WARRANTY, AND BUYER MAY NOT TRANSFER IT, TO BUYER'S CUSTOMERS OR ANY OTHER THIRD PARTY.

10. Limitation of Liability. GROSCHOPP WILL IN NO EVENT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, WHETHER IN AN ACTION BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY, ARISING FROM OR RELATED TO THE TRANSACTIONS CONTEMPLATED HEREUNDER, EVEN IF GROSCHOPP KNEW OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT WILL GROSCHOPP'S TOTAL LIABILITY ARISING FROM OR RELATED TO THE TRANSACTIONS CONTEMPLATED HEREUNDER (INCLUDING WITHOUT LIMITATION ANY WARRANTY CLAIMS), WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY, EXCEED THE TOTAL AMOUNT BUYER PAID TO GROSCHOPP FOR THE PRODUCTS OR SERVICES ACTUALLY GIVING RISE TO SUCH LIABILITY. THIS LIMITATION IS CUMULATIVE WITH ALL PAYMENTS MADE TO BUYER FOR ANY CLAIMS OR DAMAGES BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF MULTIPLE CLAIMS WILL NOT ENLARGE THE LIMIT.

11. Acknowledgment. Buyer acknowledges that Groschopp has set its prices and fees, and has agreed to sell Products and Services to Buyer, in reliance on the limitations of liability, disclaimer of warranties and exclusive remedies set forth in these Terms, and that such provisions form an essential basis of the bargain between the parties, without which Groschopp would not have agreed to sell Products and Services to Buyer. Such provisions will survive and apply notwithstanding any failure of essential purpose.

12. Indemnity. Buyer will defend, indemnify and hold harmless Seller and its agents, officers, directors and employees from and against any losses, damages, claims, liabilities and expenses, including attorneys' fees, arising from or related to Buyer's or Buyer's customers' use of Products or Services, except in the event such losses, damages, claims, liabilities or expenses are caused solely by a breach of Groschopp's warranty under Section 9 above, in which case Groschopp's liability, if any, will be only to Buyer and will be limited as set forth in Sections 9 and 10 above.

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13. **Software.** To the extent any Products or Services contain any software, the following terms apply: (a) Groschopp or Groschopp's licensor retains full ownership, including all patents, copyrights, trade secrets, trademarks and other intellectual property rights, in such software; (b) Groschopp grants to Buyer a non-exclusive, nontransferable, non-sublicensable, limited license to (i) use internally such software solely in connection with a Product, and (ii) distribute such software that is embedded in a Product (in machine code only) solely as programmed in the Product. Buyer will not engage in unauthorized use or disclosure of software, including any reverse engineering, disassembling, de-compiling, copying, modifying, selling or otherwise exploiting the software.
14. **Intellectual Property.** All products, designs, circuits, devices, software, firmware, documentation, data, processes, methods and other items that are designed, developed or produced by Groschopp in connection with any Products or Services are the sole property of Groschopp and are not "works made for hire" or "commissioned works." Groschopp retains all patents, copyrights, trade secrets and other intellectual property rights with respect to any design, process, manufacturing and other technologies used in or resulting from the development or production of Products or Services. Neither Buyer nor any third party (whether by implication, operation of law or otherwise) will have any right or license in or to any patent, copyright, trade secret or other intellectual property right not expressly granted by Groschopp in these Terms.
15. **Tooling.** Groschopp retains full ownership of all tooling, materials or equipment Groschopp uses in the manufacture, testing or assembly of Products or Services, unless otherwise agreed in a writing signed by Groschopp.
16. **Confidential Information.** All information Buyer obtains from Groschopp that Buyer knows or should know is confidential to Groschopp, including without limitation pricing, lead-time and trade secret information, will remain Groschopp's confidential information and Buyer may not disclose such information to any third party.
17. **Legal Compliance.** Buyer will comply with all applicable laws, regulations and administrative rules governing the purchase and sale of Products, including without limitation all laws and regulations governing the export, import or re-export of Products.
18. **Assignment.** Buyer may not assign any of its rights or delegate any of its obligations under these Terms, whether voluntarily, by operation of law or otherwise, without Groschopp's prior written consent, and any purported assignment or delegation without consent will be null and void. In the event Buyer is a corporation, limited liability company or other legal entity, a prohibited assignment will be deemed to have occurred upon the transfer of a majority of shares or other ownership interests in Buyer, whether such transfer takes place in one transfer or successive transfers over time. Groschopp may assign its rights and/or delegate its obligations under these Terms upon written notice to Buyer. Subject to the foregoing, these Terms will bind each party and its respective successors and permitted assigns.
19. **Waiver.** Groschopp's waiver of any right it may have or any default by Buyer will not be a continuing waiver of such right or default or a waiver of any other right Groschopp may have under these Terms. No waiver by Groschopp will be effective except pursuant to a writing signed by a duly authorized representative of Groschopp.
20. **Governing Law; Venue.** The laws of Iowa will govern the validity, performance and construction of these Terms and any disputes arising from or relating to these Terms or the transactions contemplated hereunder. All disputes will be subject to the exclusive jurisdiction of the state or federal courts in Sioux County, Iowa, and Buyer consents to the personal and exclusive jurisdiction and venue of these courts.
21. **Entire Agreement; Amendment.** These Terms will constitute the entire agreement between Buyer and Groschopp with regard to the Products or Services and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to the Products or Services. These Terms may not be superseded, cancelled or amended except in a writing signed by each party. No other act, document, usage or custom will be deemed to supersede, cancel, modify or amend these Terms. If any provision of these Terms is determined to be invalid, illegal or unenforceable, such provision will be enforced to the extent possible consistent with the stated intention of the parties and the remaining provisions will remain in full force and effect.