

TERMS AND CONDITIONS OF SALE

1. **Contract Formation.** Any items or goods sold by Grafix ("Vendor") to the purchaser identified or designated on the reverse side hereof or its affiliates ("Customer") are sold or provided solely pursuant to the Terms and Conditions set forth herein. Any of the Customer's terms or condition, in addition to or different from those contained herein, whether added to this form or contained in any purchase order, acknowledgment, confirmation or other document prepared or submitted by Customer, are hereby objected to and shall be of no effect. Customer's ordering or accepting any goods referenced on the reverse side hereof or making payment under or related to this Invoice shall be deemed acceptance of these Terms and Conditions.
2. **Payment.** All payments hereunder shall be in legal tender of the United States of America. In the event Customer fails to make payment in full within the time period set forth on the reverse side hereof, such failure to pay on time constitutes a material breach of contract by Customer and permits Vendor to suspend further delivery under any contract between Customer and Vendor. If Vendor has to take legal action or file an arbitration to collect any amounts due based hereunder, Customer shall pay all court costs and arbitration fees, as well as, all reasonable attorney's fees and other related costs and expenses incurred by Vendor in bringing and prosecuting such action.
3. **Prices.** The prices set forth on the reverse side hereof are not discountable unless expressly stated on the reverse side hereof.
4. **Taxes.** All prices are quoted exclusive of taxes. All taxes applicable to any order placed hereunder, including, but not limited to, Ohio or other applicable sales or use taxes, are additional and, to the extent legally permissible, shall be paid by Customer.
5. **Shipping.** All prices are f.o.b. Vendor's facility referenced on the reverse side hereof. Unless specifically noted on the quotation or on the reverse side hereof, all freight and shipping costs shall be the responsibility of Customer.
6. **Finance Charge.** A finance charge of the lesser of 1.5 % per month, 20.5% ANNUAL PERCENTAGE RATE, or the highest rate permitted by law, shall be charged on all amounts unpaid 30 days after the date of this Invoice.
7. **Force Majeure.** Vendor shall not be deemed to be in default of any of its obligations hereunder due to any delays caused by acts of God, fires, floods, strikes, work stoppages, equipment failure, power failures or outages, accidents, allocations, or other controls or regulations of federal, state or local government, shortages of cars, fuels, power, materials or labor, or any other cause beyond its reasonable control.
8. **Inspection and Claims.** It is Customer's obligation to inspect all goods upon receipt. All claims of any nature shall be barred unless written notice thereof is received by Vendor, at its address set forth on the reverse side hereof, within fifteen (15) days after receipt of the goods, and the goods relating to such claims are held intact and properly protected, unless instructed otherwise in writing by Vendor. **FAILURE TO**

NOTIFY VENDOR OF ANY NON-CONFORMANCE WITHIN FIFTEEN (15) DAYS AFTER RECEIPT OF ANY GOODS SHALL CONSTITUTE ACCEPTANCE OF SUCH GOODS AND WAIVER OF ALL CLAIMS WITH RESPECT TO ANY NON-CONFORMANCE.

9. **Cancellation.** Customer may cancel all or any the items ordered only by written notice received by Vendor at least thirty (30) days prior to shipment. Upon receipt of a timely cancellation notice, Customer agrees to pay for completed items and any direct or indirect costs or expenses incurred by Vendor as a result of cancellation, including a restocking charge of 15% of the purchase order price. Vendor reserves the right to complete and ship items cancelled within thirty (30) days of scheduled shipment, in which case Vendor and shall be entitled to the entire amount invoiced.
10. **Transportation and Risk of Loss.** Upon delivery to a common carrier, Customer or Customer's agents or representatives, of any goods hereunder, the risk of loss or damage to such goods shall pass to Customer, and Vendor shall have no further liability therefore.
11. **Customer's Insolvency.** Vendor shall have the unrestricted right to cancel, withhold, or delay its performance or delivery in the event of the happening of any of the following or any other comparable events, in which event Vendor shall have no liability for any losses or damages claimed by Customer: (i) Customer's failure to timely pay any obligation to Vendor, (ii) Customer's insolvency or commission of an act of bankruptcy; (iii) commencement of proceedings by, for or against Customer under any law relating to bankruptcy or the relief of debtors; (iv) the appointment of a receiver or trustee for Customer; (v) the execution by Customer of an assignment for the benefit of the creditors; and (vi) the determination by Vendor, in its sole judgment, that Customer's financial condition is such as to endanger its performance hereunder.
12. **Warranty.** Vendor warrants only that all goods sold pursuant hereto will meet the written specifications set forth or referenced on the face hereof.
13. **Limitation of Warranty.** **THE AFORESAID IS THE ONLY WARRANTY GIVEN BY VENDOR AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY. SPECIFICALLY, THERE IS NO WARRANTY OF MECHANABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXCLUDED.**
14. **Limitation of Remedy.** **CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO ANY GOODS PURCHASED HEREUNDER THAT ARE FOUND TO BE DEFECTIVE OR OTHERWISE NOT IN CONFORMITY WITH THIS CONTRACT SHALL BE LIMITED, AT VENDOR'S SOLE OPTION, TO: (A) REPLACEMENT OF ANY DEFECTIVE OR NON-CONFORMING GOODS OR COMPONENT THEREOF, (B) CREDITING CUSTOMER'S ACCOUNT, [IN ACCORDANCE WITH VENDOR RETURN AND MERCHANDISE CREDIT POLICIES], FOR SO MUCH OF THE PURCHASE PRICE AS RELATES TO ANY DEFECTIVE OR NON-**

CONFORMING GOODS, OR (C) REFUNDING THE PRICE PAID FOR ANY DEFECTIVE OR NON-CONFORMING GOODS.

15. **Limitation of Liability.** VENDOR'S LIABILITY FOR DEFECTIVE OR NON-CONFORMING GOODS SOLD PURSUANT HERETO, SHALL BE LIMITED TO, AND SHALL IN NO EVENT EXCEED, THE AMOUNT PAID BY CUSTOMER FOR SUCH DEFECTIVE OR NON-CONFORMING GOODS.

UNDER NO CIRCUMSTANCES SHALL VENDOR BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR LOST PROFITS, EVEN IF VENDOR HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

16. **Limitation of Action.** In no event may any claim by Customer arising from or relating to any agreement, order or sale of any items referenced herein be brought more than one (1) year after the date of delivery or the date such claim arose, whichever shall be earlier.
17. **Complete Agreement.** Vendor's quotation, sales order and invoice (any or all as the case may be) constitute the entire and only agreement between the parties hereto and any negotiations, representations, affirmations of fact, and courses of prior dealings, promises or conditions in connection therewith if not expressly incorporated herein shall not be binding upon Vendor. No waiver, alteration or modification of any of the provisions hereof shall be binding unless in writing and signed by a specifically authorized representative of Vendor.
18. **Arbitration.** Any dispute arising between the parties hereto shall be resolved by arbitration in Cleveland, Ohio, in accordance with the Rules of the American Arbitration Association, and the award of the arbitrator(s) shall be final and binding upon the parties.
19. **Non-Waiver.** No waiver or failure to enforce compliance with the terms hereof by Vendor shall constitute a waiver of Vendor's rights to insist upon strict compliance with the terms of this order thereafter.
20. **Controlling Law.** This Agreement shall be governed by and construed in accordance with the Laws of the State of Ohio applicable to a contract executed and performed in such State, without giving effect to the conflicts of laws principles thereof.
21. **Headings.** The headings used in this Agreement are solely for the convenience of the parties and shall have no force or effect upon the interpretation of any provision hereof.