

IMS Company Terms and Conditions of Sale

Seller's Terms and Conditions of Sale apply to all purchases made by Buyer from Seller and all Invoices, emails, packing lists, or any other method of confirming an Order conveyed from Seller to Buyer. All Orders shall be subject only to Seller's Terms and Conditions unless Seller expressly agrees otherwise, in writing, making express reference to Seller's Terms and Conditions.

1. Definitions.

- (a) Seller: IMS Company;
- (b) Buyer: a business or individual customer who purchases Goods from Seller through any method offered by Seller, including any successor thereof;
- (c) Goods: any products and materials manufactured, imported, supplied and/or delivered for or by Seller to Buyer;
- (d) Invoice: Issued by Seller in confirmation of an Order received from Buyer, which shall include, among other information, the part descriptions, quantity, the total order price, tracking numbers, order date, shipping date, billing information, shipping information, and payment method; and
- (e) Order: Goods that Buyer has requested delivery of and are confirmed in Seller's packing list, Invoice, or by any other means, and which shall be subject only to Seller's Terms and Conditions unless otherwise specified in writing by Seller.

2. Offer. Seller's Terms and Conditions constitute an immediately acceptable offer to sell Goods to Buyer. Buyer shall be bound by Seller's Terms and Conditions upon purchase of Goods from Seller. Seller shall be bound by Seller's Terms and Conditions when Buyer's Order is received by Seller.

ANY TERMS PROPOSED IN BUYER'S ACCEPTANCE (WHETHER IT BE IN A PRINTED PURCHASE ORDER OR IN ANY OTHER WRITING, OR OTHERWISE) THAT DELETE, ADD TO, OR WHICH COULD IN ANY WAY BE CONSTRUED AS VARYING FROM OR CONFLICTING WITH THE TERMS AND/OR CONDITIONS STATED HEREIN, ARE HEREBY OBJECTED TO AND REJECTED. SUCH PROPOSED TERMS AND/OR CONDITIONS SHALL BE VOID AND THE TERMS AND CONDITIONS HEREOF SHALL CONSTITUTE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS AND CONDITIONS OF THE CONTRACT BETWEEN BUYER AND SELLER AND MAY HEREAFTER BE MODIFIED ONLY BY WRITTEN INSTRUMENT EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF SELLER.

IF SELLER'S TERMS AND CONDITIONS HAVE BEEN ISSUED BY SELLER IN RESPONSE TO AN OFFER MADE BY BUYER, AND IF ANY OF SELLER'S TERMS AND CONDITIONS ARE ADDITIONAL TO OR DIFFERENT FROM BUYER'S TERMS AND CONDITIONS, THEN THE ISSUANCE OF SELLER'S TERMS AND CONDITIONS SHALL CONSTITUTE AN ACCEPTANCE OF BUYER'S OFFER, SUBJECT TO THE EXPRESS CONDITION PRECEDENT THAT BUYER ASSENT TO SUCH ADDITIONAL OR DIFFERENT

TERMS AND ACKNOWLEDGE THAT SELLER'S TERMS AND CONDITIONS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN BUYER AND SELLER WITH RESPECT TO THE SUBJECT MATTER OF BUYER'S OFFER. BUYER SHALL BE DEEMED TO HAVE ACKNOWLEDGED AND ASSENTED TO SELLER'S TERMS AND CONDITIONS UNLESS BUYER NOTIFIES SELLER IN WRITING WITHIN TEN (10) DAYS OF PLACING AN ORDER, WHICH IS SUBJECT TO SELLER'S TERMS AND CONDITIONS. BUYER AGREES THAT NO CONTRACT SHALL EXIST BETWEEN SELLER AND BUYER EXCEPT AS EXPRESSLY SET FORTH HEREIN.

3. Price and Specification. The selling price of each product is specified for each Order. Seller's product specifications and prices are subject to change without notice. For the most up-to-date information, please refer to the Seller's website: imscompany.com.

4. Sales Tax. Seller charges state and local sales tax for all sales unless Buyer has provided Seller with a Sales Tax Exemption Certificate. To receive an exemption, Seller must have a copy of an up-to-date Tax Exemption Certificate prior to Buyer placing an Order or sales tax will be added, without exception, to that Order. Seller may request a Tax Exemption Certificate from Buyer if Seller does not have one on file.

5. Disclaimer of Offer to Sell where Legally Prohibited. By placing an Order, Buyer represents to Seller that it has the authority to order and/or use the Goods purchased without violating any federal, state or local law. To the extent that any federal, state or local law precludes the sale and/or use of specific aerosols, chemicals or other products described on Seller's website or in Seller's catalog, Seller makes NO OFFER TO SELL such regulated Goods, nor does viewing Seller's webpage or receipt of Seller's catalog by Buyer constitute an offer to sell such Goods.

6. Delivery. Seller charges for shipping and handling on all Orders. Special delivery services are available for an additional charge; including a courier service, urgent delivery, prepaid freight and air, and 3-day-select shipment of aerosol/chemical products. All Orders are sold F.O.B. Seller's place of shipment. Time is not of the essence with respect to delivery dates. Also, unless otherwise notified, Seller may make a reasonable adjustment to the delivery date at its sole discretion. The acceptance of a shipment by Buyer shall constitute proper delivery. Unless otherwise specified in writing authorized by Seller, all charges, expenses or taxes associated with the delivery, including but not limited to, shipping and handling, charges for special delivery services, and for refused deliveries, shall be paid by the Buyer; unless Buyer's refusal is for damaged Goods (see Returns, ¶7). Freight charges for refused shipments will be charged to Buyer. Buyer can get shipping information, including C.O.D. charges, freight charges, and special services by calling IMS Technical Sales/Service Team at (440) 543-1615 or (800) 537-5375. Seller requests that Buyer call for additional details.

Seller recommends that Buyer's receiving personnel ask for a redelivery rather than refusing a shipment on the first day if the shipment cannot be identified, or if there is no payment ready for a C.O.D., etc. (UPS will make three delivery attempts before returning a package to Seller). Buyer can receive additional shipping information, including C.O.D. charges, freight charges, and special services by calling Seller's Technical Sales/Service Team at (440) 543-1615.

7. Returns. Regardless of the nature of a return, Buyer shall call Seller before attempting to make the return in order to obtain a Return Authorization Number (R/A #). Buyers wishing to make a return may call Seller at (800) 537-5375 to coordinate Buyer's request. Requests for a return must be made to, and authorized by, Seller within 30 days after the Invoice Date. Returns requested more than 30 days after the Invoice Date will not be honored unless the request relates to a defective product as part of a warranty claim. Goods must be returned to and received by Seller within 30 days of the return authorization date.

Returned Goods must be in new and resalable condition, in its original packaging with all original accessories, manuals and warranty registration cards, etc. In addition, a return must be adequately packed. Buyer will be responsible for items damaged during return shipment. Goods approved for return must be sent standard ground freight prepaid. Seller will not pay for freight brokerage fees.

Seller may refuse to receive any returned Goods that are returned without a R/A # clearly noted on the package or shipping documents/label. Buyer assumes the responsibility to reconcile the returned freight cost. Seller will not issue credit for any used, damaged, or incomplete Goods or for Goods returned without a R/A #.

Any approved returns due to Buyer error, decision change, or any other customer/subjective reason will be subject to a 15% restocking charge. A defective product can be returned at any time within the product's warranty period, under the terms of Seller's Limited Warranty. Buyer must call for details to receive a R/A # BEFORE sending anything back.

Custom and/or made-to-order Goods of any kind, discontinued Goods, and any special sale or promotional Goods cannot be returned for any reason unless defective or agreed to in writing by Seller.

If a return is needed for a repair or warranty claim, Buyer must call Seller for information and a R/A #. If a return relates to a repair, Seller will contact the Buyer and quote a price before a repair is done. An inspection fee will be charged if the Buyer chooses not to have the necessary repairs made; unless the customer immediately places an order to purchase a new replacement item that directly replaces the inspected item.

8. Free Testing Service. Seller provides free testing as a service to help Buyers choose IMS's products best suited to their needs. Buyer shall provide a sample on which Seller can test the Goods. Buyer's use of this testing service may prevent returns. In order to utilize testing service, Buyer must call Seller's Sales/Service Team for information; and to receive a R/A # for the sample.

9. Export Shipments. "Exports" shall be defined as shipments to Buyers located outside the United States. For Buyers who are export customers, all amounts, including freight and insurance, shall be required in advance for all Exports. This pre-payment may be waived for Buyers who are existing and established export customers. Foreign Buyers with an established open account can maintain that status as long as all Invoices are paid within 30 days. New accounts may be opened for foreign Buyers when a corporate guarantee from a U.S. parent company, four U.S. trade references,

bank references and appropriate financial data are supplied and approved by IMS. Payment on open accounts is required in U.S. funds. Export crating or packaging will be an additional charge (time and materials) on some items if required.

10. Risk of Loss and Damage/Transfer of Title. The risk of loss or damaged Goods passes to Buyer upon shipment of Goods as specified herein. Title to Goods shall pass to Buyer upon receipt of valid payment by Seller.

11. Changes. Seller may at any time change the method of shipment or the manner of packing the Goods ordered. If any change causes an increase or decrease in cost of, or time required for performance, an equitable adjustment shall be made in price or delivery schedule or both. No claim by Buyer for adjustment shall be allowed unless made in writing within 20 days from the date notice of such change is received by Buyer.

12. Limited Warranty. All Seller's auxiliary and testing equipment are warranted to be free of defective material or workmanship for a period of 2 years from the date of shipment from Seller; unless a different warranty term is specified in writing by Seller, without limitation, in its catalog or product manuals. All basic consumables, including, but not limited to, consumable machinery components and commodity items including, but not limited to, fuses, heater bands, immersion heaters, elements, brushes, belts, O-rings and otherwise renewable parts shall be warranted against defects for a period of 90 days from the date of purchase. If any product is found by Seller to be defective, Seller's sole obligation under this limited warranty shall be, at its option, the repair or replacement of such product or any part(s) thereof, at no charge to Buyer. Seller's limited warranty does not cover, and Seller EXPRESSLY DISCLAIMS AND WARRANTS with respect to, any defect, failure, deficiency or error which is: (a) not reported to Seller within the applicable warranty period and returned to Seller within 30 days of notification of Buyer's warranty claim; (b) due to product modification, abuse, misuse, improper storage, unauthorized repair or maintenance or abnormal conditions of temperature, humidity, dirt or corrosive matter; (c) due to the application of the product, either intentional or otherwise, in an improper manner; or (d) due to normal wear and tear of the product or any part(s) thereof. For processing a warranty claim, see instructions under Returns, ¶7.

SELLER'S LIMITED WARRANTY IS IN LIEU OF AND EXCLUDES ANY AND ALL OTHER WARRANTIES REGARDING PRODUCTS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTIES AGAINST DEFECTS IN DESIGN, MATERIALS AND WORKMANSHIP, AND THE WARRANTY AGAINST REDHIBITORY DEFECTS. BUYER AGREES THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE WARRANTIES CONTAINED HEREIN. BUYER WAIVES ALL OTHER CLAIMS AGAINST SELLER.

SELLER'S TOTAL LIABILITY RELATED TO ANY PRODUCT IS LIMITED TO THE REPAIR OR REPLACEMENT OF SUCH PRODUCT AND IN NO EVENT SHALL EXCEED THE PURCHASE PRICE OF SUCH PRODUCT PAID TO SELLER BY BUYER. SELLER SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE,

STORAGE OR USE OF THE PRODUCT, INCLUDING, BUT NOT LIMITED TO: (A) DAMAGES FOR LOSS OF USE, INCOME OR PROFIT; (B) LOSSES SUSTAINED AS A RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSONS; AND/OR (C) DAMAGES TO PROPERTY, OTHER THAN THE PRODUCT.

13. Confidentiality and Proprietary Information. Seller retains ownership of all Proprietary Data and other information that may be disclosed or discoverable by Buyer in connection with the Order. "Proprietary Data" includes, but is not limited to, all design, engineering and technical information (whether patentable or not), and other information concerning Seller's trade secrets, customer lists and specification for Goods.

14. Patent, Trademark and Copyright. Buyer agrees to indemnify and hold harmless Seller from and against any and all losses, costs, damages and expenses, including any and all attorneys' fees, for any infringement or alleged infringement of any U.S. or foreign patent, trademark or copyright by reason of the sale or use of any Goods sold to Buyer. Seller will promptly notify Buyer of any claim for infringement and cooperate, at Buyer's request, in the defense thereof.

15. Credit and Payment Policy

a. Requests for Open Credit. Seller offers 30-day-net credit terms to customers with approved credit. To apply for credit, all interested parties must complete a credit application with Seller, provide trade references with fax numbers and emails, and sign page 2 of the credit application. Once complete, the credit application can be emailed to credit@imscompany.com or faxed to (440) 543-1070. Upon approval of credit application by Seller, a credit limit will be established by Seller and the customer will be notified that the account is open with net 30 day terms.

Any Buyer who has not placed any orders within the most recent 36-month period is considered an Inactive Buyer. An Inactive Buyer may place an Order, but shall first resubmit a new credit application and be approved by Seller. Upon approval of Buyer's new credit application by Seller, a credit limit will be established and Buyer will be notified that the account is open with Net 30 day terms.

If any Order exceeds a Buyer's existing credit limit, Seller's credit department may request updated credit information from Buyer or run a D&B report. If approved, Buyer's credit limit will be raised accordingly and the Order will be released. If not approved, Seller may cancel Buyer's Order and allow Buyer to resubmit the Order when sufficient credit is obtained. The Buyer is liable for all collection expenses including any and all legal fees when outside debt collection efforts are required.

b. Payment by Check. Buyer shall make check payable to IMS Company. Buyer shall send checks to:

IMS Company
P.O. Box 75799
Cleveland, Ohio, 44101-4755

There will be a \$30.00 charge assessed to Buyer for insufficient funds to Seller.

c. Domestic Electronic (ACH) and Wire Transfer Policy. Buyer shall contact Seller for routing numbers for ACH and wire transfers. There is no charge for domestic electronic transfer (ACH). A charge shall be assessed to Buyer for any domestic and international wire transfers. The charge assessed will be a minimum of \$15.00.

d. Acceptable Advance Payment Methods for Exports. Foreign wire transfer (SWIFT) to Seller's bank are preferred for Exports and will help expedite shipment of an Order. Buyer shall pay any fees or deductions associated with such a wire transfer. Direct international transfers to:

Huntington National Bank
7 Easton Oval (EA2W47)
Columbus, Ohio 43219
Swift Address: HUNTUS33

Contact Seller for routing numbers.

e. Payment by Credit Card. Seller accepts only VISA, MasterCard, American Express and Discover.

f. Payment by International Money Orders. Seller generally accepts payment by international money order if approved by Seller's bank. Any fees charged to Seller related to payment by international money order shall be passed on to Buyer.

g. Payment by Foreign Checks. Seller accepts payment by foreign check only if drawn in U.S. dollars on a U.S. bank. Buyer's Order will be processed only after final collection of funds covering Goods and all fees associated with the Order are paid by Buyer.

h. Irrevocable Letters of Credit. Seller generally accepts payment by irrevocable letters of credit if approved by Seller's Bank. Buyer must pay all confirmation charges and other fees associated with payment by irrevocable letters of credit.

16. Shipment of Catalogs to Potential Foreign Customers. Catalogs will be shipped to foreign customers only if the foreign customer's Federal Express, DHL, United Parcel Service, or other acceptable freight account number can be utilized.

17. Compliance with Laws. Buyer warrants that by placing an Order with Seller it will comply with all applicable federal state and local laws, rules, regulations or orders, and the same shall be deemed incorporated herein by this reference. Such reference includes, but is not limited to, applicable requirements of Federal Acquisition Regulations, Consumer Products Act, the Electronic Signatures in Global and National Commerce Act, the Occupational Safety and Health Act, Toxic Substances Control Act, the Fair Labor Standards Act, Workers' Compensation laws, the U.S. Department of Labor, EEOC, the Civil Rights Act of 1964 and Executive Order 11246, all of which may be amended from time to time. Upon Seller's request, Buyer will furnish Seller with certification of compliance with the foregoing.

18. Enforceability of Electronic Signature and Records. By agreeing to Seller's Terms and Conditions, Buyer also agrees that information relating to any transaction with Seller (the "Record") may be provided to Buyer in electronic form. For all Orders placed, an electronic Record will be sent to Buyer via email for Buyer's reference after the Order is shipped. Buyer has the option to withdraw consent to receiving the Record in electronic form and may choose to receive the Record in paper or other non-electronic form for each Order. Choosing to receive the Record in non-electronic form may result in Buyer being charged reasonable costs or fees associated with production of the non-electronic Record and Seller may choose to terminate its relationship with Buyer. Buyer's consent to receive an electronic record shall apply to all future orders unless Buyer informs Seller in writing of its decision to receive the Record in a non-electronic form and provides Seller with updated contact information for non-electronic delivery of the Record to Buyer.

19. Assignment. Except as otherwise provided, Seller's Terms and Conditions shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.

20. Severability. The invalidity of any part of Seller's Terms and Conditions shall not affect the remaining provisions.

21. Limitation of Period for Action on Contract. Parties agree, notwithstanding the applicable statute of limitations prescribed under Ohio law, no action, regardless of form, arising out of any transaction between Buyer and Seller under these Terms and Conditions may be brought by Buyer more than one year after the cause of action has accrued.

22. Choice of Law. Seller's Terms and Conditions, or any contract based hereon and any question with respect to the construction, interpretation or performance hereof shall be governed by and determined in accordance with the laws of the State of Ohio.

23. Consent to Jurisdiction and Venue. Seller and Buyer agree that any dispute arising in relationship to Seller's Terms and Conditions or any contract created between them, shall be resolved in the Court of Common Pleas located in Geauga County, Ohio, and in the Federal District Court for the Northern District of Ohio, Eastern Division, and that no action shall be filed in any other court pertaining to any dispute arising out of, or connected to Seller's Terms and Conditions. Seller and Buyer also hereby waive any issues of personal jurisdiction or venue for purposes of carrying out this provision.

24. Entire Agreement. Seller's Terms and Conditions and the operative provisions of any Invoice issued by Seller, sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of every kind and nature among them.



10373 Stafford Road Chagrin Falls, OH 44023-5296
 Tel: 440.543.1615 Fax: 440.543.1069
 Toll-Free Tel (USA & Canada): 800.537.5375
 Toll-Free Tel (Mexico): 001.888.304.1307
 Toll-Free Fax (USA & Canada): 888.288.6900

Tech-Support Hot Line Toll-Free Tel
 (USA & Canada): 866.467.9001

Online Catalog:
www.imscompany.com

E-mail: sales@imscompany.com



Business Credit Application

(Confidential)

Please complete, sign and send the IMS credit application to credit@IMScompany.com if you have a standard sheet with your company's credit information, including references, you can send it in lieu of completing the trade reference section.

Company Name: _____ **Date:** _____

Billing Address: _____

City: _____ **State:** _____ **Zip:** _____

Accounts Payable Contact: _____ **Accounts Payable Phone:** _____

Accounts Payable Fax: _____ **Accounts Payable E-mail:** _____

Shipping address: _____ **City:** _____ **State:** _____ **Zip:** _____

Phone: _____ **Fax:** _____ **E-mail:** _____

Business Organization: Proprietorship Partnership Corporation
If Incorporated: State of Inc.: _____ Year of Inc.: _____ NAICS Code: _____
Type of Business: Manufacturing Resale (provide resale certificate)

Owner or key management members:

Name: _____ **Last 4 of SS#:** _____
Date business established: _____ **Years at present location:** _____ **# of employees:** _____
Tax I.D. #: _____ **D&B #** _____
 If any bankruptcy, please provide date(s): _____

Alabama sales tax exemption #: _____ **(copy of certificate required)**

Indiana sales tax exemption #: _____ **(copy of certificate required)**

Michigan sales tax exemption #: _____ **(copy of certificate required)**

Ohio sales tax exemption #: _____ **(copy of certificate required)**

Pennsylvania sales tax exemption #: _____ **(copy of certificate required)**

(Taxes for states other than Alabama, Indiana, Michigan, Ohio and Pennsylvania will NOT be collected)

Banking Information:

Bank Name: _____ **Branch Name:** _____
Routing #: _____ **Account #:** _____
Contact Name: _____ **Phone Number:** _____
Address: _____ **City:** _____ **State:** _____ **Zip:** _____



Business Credit Application

(Confidential)

Please Send Completed Credit Application to Credit@IMSCompany.com

Trade References (Preferably U.S. Accounts):

1. Name: _____ Acct#: _____ Phone: _____

Fax: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

2. Name: _____ Acct#: _____ Phone: _____

Fax: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

3. Name: _____ Acct#: _____ Phone: _____

Fax: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

I have read, understand and accept IMS Company Terms and Conditions of Sale

Officer's Consent:

I/we authorize the creditor to make whatever inquiries are necessary in connection with this credit application or in the course of the review or collection of any credit extended. I/we authorize any person or consumer reporting agency to compile and furnish to the lender any information in response to credit inquiries and agree that this information shall remain your property whether or not credit is extended. All information on the application is true and for the purpose of obtaining the credit requested.

Printed name _____

Date _____

Signature _____

Title _____

Printed name _____

Date _____

Signature _____

Title _____

Company terms of Net 30. A credit limit will be set at the discretion of IMS Company. A credit application may be denied if the customer's credit references, payment history or financial records indicate any potential difficulty in meeting IMS Company's payment policy.

11/30/17 Rev 003

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