

CC01.05 AMCOL Terms and Conditions of Sale Directory: Customer Communication Last Saved By: AA-0004	Guideline	Page 1 of 1 Last Update: 7/2/2008 Status: Approved for Use
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The AMCOL Terms and Conditions of Sale are as follows:

1. No purchase order to AMCOL shall be construed as an offer, or counter-offer, but only an acknowledgement that buyer agrees to accept all terms set forth herein, which terms are the sole and exclusive terms governing AMCOL's agreement to sell goods and buyer's agreement to buy. AMCOL has no duty to sell upon receipt of buyer's purchase order unless and until AMCOL acknowledges such duty to buyer in writing or ships. AMCOL expressly rejects all additional or different terms set forth in any request for quotation, purchase order or other document issued or published by buyer.
2. All implied warranties, including but not limited to implied warranties of merchantability or fitness for a particular purpose are hereby expressly disclaimed. The parties hereby agree that all claims for consequential damages, including late delivery, lost profits or lost productivity, are excluded, and waived by buyer. Buyer's damages, if any, due to any alleged breach of contract are limited to repair or replacement of defective parts or materials for one half year from the date of shipment. Damages arising out of or relating to use or misuse of products purchased are buyer's sole responsibility.
3. AMCOL will ship on or around the date agreed upon by the parties. Buyer shall pay AMCOL's invoice as per the agreed terms of payment; these terms are typically based upon the date of shipment.
4. Buyer acknowledges, agrees, represents and warrants that it is buyer's responsibility (i) to manage and train responsible employees to operate the goods sold for their intended purpose; (ii) to assure the premises in which such goods are used are suitable and safe; (iii) to operate goods purchased in a safe and reasonable manner, including compliance with all applicable federal, state and local guidelines, laws, rules and regulations, and (iv) that buyer has all requisite skill, knowledge and experience to carry out the foregoing. In the event of any injury or death to any person, or damage to or destruction of any property arising out of or relating to the use of products sold by AMCOL to buyer, buyer shall indemnify, defend, and hold AMCOL harmless in connection with all actions, suits, proceedings, damages, or other legal or equitable claims of any kind or nature in which products purchased by buyer from AMCOL, or any warning or failure to warn regarding the use of such products is asserted to be all or any portion of the actual or proximate cause of the injuries or damages giving rise to such claim. Buyer's duty to defend shall include the obligation to pay all AMCOL's actual attorney fees and costs related to such defense throughout the litigation, arbitration or other dispute resolution process.
5. Buyer shall pay all applicable sales, use, or other taxes which may be applicable to this transaction.
6. Neither party shall be considered in default hereunder or be liable for any failure to perform to the extent that such failure or delay shall be caused by any reason beyond its control, including an act of God; fire, explosions, hostilities or war (declared or undeclared), striking or work stoppage involving either party's employees or governmental restrictions, provided that the party declaring *force majeure* shall give notice to the other party promptly and in writing of the commencement of the condition, the nature, and the termination of the *force majeure* condition. The party whose performance has been interrupted by such circumstances shall use every reasonable means to resume full performance of this agreement as promptly as possible.
7. This Agreement shall be subject to and construed in accordance with the laws of the State of Michigan. Any suit, action or proceeding against AMCOL with respect to this Agreement shall be brought in the United States District Court for the Eastern District of Michigan. In the event such Federal jurisdiction is unavailable, then any such suit, action or proceeding shall be brought in the Hazel Park District court or the Oakland County Circuit Court of the State of Michigan.

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