

Terms and Conditions of Sale

- Title and Risk of Loss or Damage:** As to Goods Delivered by Seller's truck, Title passes upon delivery at the place Buyer receives possession; and, thereafter, all risk of loss shall be on Buyer. All other sales are F.O.B., point of shipment, and Buyer takes title and assumes responsibility for risk of loss or damage at the point of shipment for such sales. Claims for Goods damaged in transit are Buyer's sole responsibility when not delivered by Mayer's truck.
- Taxes:** Prices shown do not include sales or other taxes imposed on the sale of goods. Taxes now or hereafter imposed on sales or shipments will be added to the purchase price based on the rates imposed by the taxing authority having jurisdiction over the sale of the Mayer products to the Buyer. Buyer agrees to reimburse Mayer for any such tax or provide Mayer with acceptable tax exemption certificates.
- Delivery:** Shipping dates are approximate and are dependent upon prompt receipt of all necessary information by the Buyer. Mayer shall not be liable for late delivery due to fire, strike, civil or military authority, war, insurrection or riot, unavailability of material or parts and for other causes beyond reasonable control of Mayer. Mayer shall not be liable for incidental or consequential damages arising from late delivery.
- Installation:** All equipment and supplies shall be installed by and at the expense of the Buyer unless otherwise stipulated in writing. Mayer may furnish, at its option, engineers to supervise installation of the equipment. The expenses shall be borne by the Buyer. If performance of the seller under this contract is prevented, hindered, delayed or otherwise made impracticable by reason of strike, flood, riot, fire, explosion, war or any other casualty or cause beyond the control of seller (hereafter called "event"), and which cannot be overcome by reasonable diligence and without unusual expense, seller is excused from his performance to the extent that it is necessarily prevented, hindered or delayed by the event and for so long as the event continues to prevent, hinder or delay the seller's performance. Buyer accepts responsibility for all loss occurring during the erection of any and all products sold by Mayer affected by but not limited to, fire, strike, civil or military authority, insurrection or riot, unavailability of materials or parts and for other causes which are beyond the reasonable control of Mayer. Mayer shall not be liable for incidental or consequential damages arising from late delivery. If performance of the seller under this contract is prevented, hindered, delayed or otherwise made impracticable by reason of strike, flood, riot, fire, explosion, war or any other casualty or cause beyond the control of seller
- Payment Terms:** The parties hereto acknowledge and agree that the Buyer will pay the entire purchase price according to Mayer's terms of sale (10th PROX NET 30) or upon such other terms approved by Mayer in writing. Retainage shall not apply, and Buyer shall not hold back any retainage from Mayer even if retainage is part of any contract between Buyer and any other party, unless agreed to in writing by a Mayer Officer. Payment is not contingent on Buyer's ability to collect or obtain funds from any other party. Buyer expressly represents it is solvent at the time it places any purchase order with Mayer. Mayer, in its sole discretion, may determine that Buyer's financial condition requires full or partial payment prior to manufacture or shipment. If Buyer fails to make any payment when due, Mayer reserves the right to suspend or cancel performance. Buyer agrees to pay finance charge on all amounts past due at the rate of 1.5% per month (18% per year) or the maximum lawful rate, whichever is more. In the event Mayer retains legal counsel for the purposes of enforcing any of the terms of this Credit Application, or otherwise defend Mayer against any claim asserted by Buyer against Mayer, Buyer agrees to pay Mayer's reasonable attorney fees at the maximum allowed in the state which has or otherwise would have jurisdiction, whether suit was instituted or not, including all court costs or other expenses incurred as part of said legal representation. In the event the legal representation involves a claim of non-payment by Applicant, Buyer agrees to pay Mayer its reasonable attorney's fee, being the greater of (a) those reasonable fees incurred, or (b) an amount not less than 15% of the total outstanding balance including, all accrued interest found due and owing, and court costs incurred to collect payment. Mayer may apply payments to any outstanding invoices in its sole discretion unless Buyer provides specific payment direction contemporaneous with and as part of said payment. Notwithstanding any attempt by Buyer to limit its liability by noting on a check or voucher that the payment constitutes "payment in full", same shall be considered a "request" for Mayer's approval, and shall be considered by Mayer provided it is sent by certified mail, return receipt, to Mayer a 3405 4th Avenue South, Birmingham, Al. 35222, Attn: Accounts Receivable Manager, and thereafter Buyer either receives a written acknowledgement from the Accounts Receivable Manager acknowledging same, or obtains a written Release signed by the Accounts Receivable Manager or a corporate officer of Mayer releasing Buyer from further liability based upon said payment. Mayer will not be liable to honor checks marked "Payment in Full" if they are not sent and approved as instructed above
- Acceptance/Termination:** Acceptance of any order is subject to credit approval by Mayer, acceptance of the order by Mayer and, when applicable, Mayer's Vendor (i.e. Manufacturers, vendors, or other third parties that provide goods to Mayer for resale to Buyer). Buyer expressly represents it is solvent at the time it places any purchase order with Mayer. Buyer agrees to furnish Mayer Financial Statements upon request. Mayer, in its sole discretion, may determine that Buyer's financial condition requires full or partial payment prior to manufacture or shipment. If Buyer fails to make any payment when due, is otherwise in default under the terms of this Credit Application, or if Mayer has reason to believe Buyer is insolvent, Mayer reserves the right to suspend or terminate performance without any liability to Mayer. Buyer acknowledges that no specifications, conditions, Purchase Orders, contracts, or other documents submitted by Buyer to Mayer attempting to modify, revise or otherwise impose Terms of Sale or performance upon Mayer other than as provided herein shall act to modify these Terms and Conditions of Sale or otherwise obligate Mayer to perform pursuant to said document(s), unless and until same have been approved by Mayer in a separate writing executed by a Mayer Officer. No other Mayer employee or agent has the authority to modify these Terms & Conditions of Sale, either verbally or in writing. Seller objects to and rejects any terms between Buyer and any other party, and no such terms, including but not limited to any government regulations or "flow-down" terms, shall be a part of or incorporated into any order from Buyer to Mayer, unless agreed to in writing by an Officer of Mayer.
- Warranties:** This general warranty policy supersedes any other warranties contained in plans or specifications or which a quotation or proposal for the Company may be based and cannot be expanded without the prior and specific written consent of Mayer, signed by a corporate officer or branch manager. Mayer shall have no obligation to perform under the terms of this warranty provision as long as there is a past due balance owed Mayer by Buyer or Buyer is otherwise in default under these Terms and Conditions of Sale. Mayer will extend to Buyer all transferable warranties made to Mayer by the manufacturers or suppliers of materials. **MAYER MAKES AND GIVES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND IT IS EXPRESSLY UNDERSTOOD THAT IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED WITH RESPECT TO ANY AND ALL GOODS, MATERIALS OR SERVICES FURNISHED BY MAYER.** Mayer does not guaranty that the Goods it sells conform to any plans and specifications or intended use. When plans and specifications are involved, Buyer is solely responsible for verifying Seller's interpretations of such plans and specifications, and its Buyer's sole responsibility to assure that Mayer's Goods will be accepted on any specific job. When Mayer offers substitute Goods on any proposal, Buyer is solely responsible for confirming their acceptability. No repair of goods or other costs are assumed by Mayer unless agreed to, in advance, in writing.
- Limited Liability:** Mayer shall not under any circumstances and for any reason whatsoever, be liable for special or consequential damages to the Buyer, including, but not limited to damages or loss of other property or equipment, loss of profits or revenue, costs of purchase or replacement goods, delays or claims asserted by parties in contract with Buyer. Any Warranty remedy of Buyer shall be with respect and limited to any warranty extended by the Manufacture. The remedy of the Buyer set forth herein is exclusive, and the liability of Mayer with respect to any contract, or anything done in connection therewith such as performance or breach thereof, or from the sale, delivery, resale, installation or use of any goods sold, whether arising out of any contract negligence, strict tort, or under any warranty or otherwise, shall not exceed the price of the goods upon which such liability is based.

9. **Indemnification:** Buyer shall indemnify, defend, and hold Mayer and its officers, directors, employees and agents harmless from any and all costs (including attorneys' and accountants' fees and expenses), liabilities and damages resulting from or related to any third party (including Buyer's employees) claim, complaint and/or judgment arising from Buyer's use of any goods furnished hereunder, as well as any negligent, intentional, or tortious act or omission of Buyer or any material breach by Buyer of these Terms.
10. **Florida Venue:** In the event of litigation between Mayer and Buyer where Buyer is a Florida resident or maintains offices within the State of Florida, or Mayer's products were delivered or used within the State of Florida, Buyer stipulates and agrees to waive any and all privileges and rights that Buyer may otherwise have under Chapter 47, *Florida Statutes*, pertaining to Venue, or Chapter 48, *Florida Statutes*, pertaining to personal jurisdiction, process and service of process and stipulates to jurisdiction of the Florida State Courts. A legal action may be brought a Mayer's sole and absolute discretion, in Hillsborough County, Florida, or any County in Florida where Mayer maintains offices for the sale of products with the State of Florida. In all such actions Florida law shall apply to all matters litigated therein.
11. **Venue for Other States:** Mayer and Buyer agree that the location of the branch receiving any purchase order shall be a proper place of venue and the laws of that state will apply.
12. **Declined Account:** If your application for business credit is denied or other actions taken, where required by state or Federal laws, you will have the right to a written statement of the specific reasons for denial. To obtain this statement, please contact the applicable Company credit location within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request. NOTICE: The Federal Equal Credit Opportunity Act prohibits Mayer from discriminating against applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this matter is Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.
13. **Assignment:** Mayer and Buyer agree that Mayer may assign all its right, title and interest in the account created hereby including without limitation, its collection remedies; and, Buyer hereby consents to any such assignment.
14. **Cancellation:** An order may be cancelled by the Buyer only if agreed to by Mayer and upon payment of reasonable charges based upon expenses already incurred and commitments made by Mayer.
15. **Returned Goods Policy**

All material to be returned should be accompanied by documentation providing Mayer with the invoice number and date, product identification number, quantity of items to be returned and the reason for the return.

Stock items: Mayer will issue credit for material returned that meets the following conditions:

 - i. Material being returned should be delivered to Mayer within 60 days of invoice date. After the expiration of said 60-day period, at Mayer's sole and absolute discretion, it may accept said materials for return in conjunction with the assessment of a reasonable re-stocking charge.
 - ii. Notwithstanding the date of return, Mayer shall have the right to reject any returned materials which are not of sufficient and reasonable quantity and in resalable condition, in the sole and absolute discretion of Mayer.
 - iii. Materials are not special ordered or specially fabricated.
 - iv. Material accepted for return after 60 days may be assessed a restocking charge.

Non-stock items: Returns are subject to returned goods policies and procedures of Mayer's suppliers; provided, however, any return necessitated by defective shipment shall be given credit by Mayer to Buyer. Returned Goods will only be accepted by Mayer trucks if the return has been previously authorized by the issuance of a Return Material Authorization.
16. **Entity Status Change:** In the event of any change in the legal status of the person or entity submitting this Credit Application, or a transfer of a majority of the assets of the Applicant to a third party, the person or legal entity applying for credit and all Guarantors, shall remain liable, jointly and severally, for all purchases made and charged to the account subsequent to said change or transfer, including, but not limited to, the Terms and Conditions of Sale, until such time as Mayer Electric Supply Company acknowledges in writing by a Manager or Corporate Officer of Mayer Electric Supply Company that it has received written Notice of such change or transfer, after which Applicant will remain liable until all amounts due on the account to the date of such Notice having been received and the account has been paid in full.
17. **Trust Funds:** Buyer agrees that all funds owed to Buyer from anyone or received by Buyer to the extent those funds result from the labor or materials supplied by Mayer Electric Supply Company, shall be held in trust for the benefit of Mayer Electric Supply Company ("Trust Funds"). Buyer agrees it has no interest in Trust Funds held by anyone and to promptly account for and pay to the Mayer Electric Supply Company all Trust Funds.
18. **Exporting:** Buyer acknowledges that this order and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders. Buyer agrees to comply with all such laws, regulations, and orders, including, if applicable, all requirements of the International Traffic in Arms Regulations and/or the Export Administration Act, as may be amended. Buyer further agrees that if the export laws are applicable, it will not disclose or re-export any technical data received under this order to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Buyer has obtained prior written authorization from the United States Office of Export Control or other authority responsible for such matters. Buyer NOT Seller is responsible for compliance with all United States export control rules and regulations. Buyer shall not name seller as shipper or exporter of record in connection with the export of any Goods purchased from Seller.
19. **Certification:** Mayer hereby certifies that these goods were produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. This agreement is subject to Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended, E.O. 13496, 29 CFR Part 471, Appendix A to Subpart A, and the corresponding regulations, to the extent required by law. 41 CFR 60-1.4, 60-741.5, and 60-250.5 are incorporated herein by reference, to the extent legally required.
20. **Foreign Corrupt Practices ACT:** Buyer shall comply with applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act (FCPA) (15 U.S.C. §§78dd-1, et. seq.) irrespective of the place of performance, and (ii) laws and regulations implementing the Organization for Economic Cooperation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the U.N. Convention Against Corruption, and the Inter-American Convention Against Corruption in Buyer's country or any country where performance of this agreement or delivery of goods will occur.
21. **Notices;** Unless otherwise specifically provided herein, all "Notices" to be given by Applicant or Guarantor(s) shall be given in writing delivered to the attention of Mayer's Corporate Credit Department at 3405 4th AVENUE SOUTH, BIRMINGHAM, AL. 35222, by certified mail, return receipt requested.

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES, AND MAY NOT BE ALTERED EXCEPT IN WRITING SIGNED BY A CORPORATE OFFICER OF MAYER AND THE BUYER, AND, SHALL BE CONSTRUED ACCORDING TO THE LAWS OF THE STATE IN WHICH VENUE IS PROPER AND AS PROVIDED HEREIN.