

TERMS AND CONDITIONS OF SALE

TERMS:

1. THESE ARE ALL THE TERMS AND CONDITIONS OF PRODUCT SALES, UNLESS A SEPARATE WRITTEN AGREEMENT IS SIGNED. Orders must be submitted in writing, and either by Fax, by e-mail, by telephone (if followed by a written order); and is binding only when accepted and communicated to customer, in writing, and always subject to credit approval, and payment method (cash, check, money order, credit card, certified Fed Funds) deposit arrangement, payment terms, production scheduling and delivery details. All State, Federal, use and excise taxes are the responsibility of customer.

2. PRODUCT DESIGN AND SPECIFICATION:

Prices, terms, specifications and applications are subject to change without notice, due to our policy of continued research for the improvement of our products, as well as changes in our material suppliers, engineering, safety concerns, government rules and the like. Modifications are requested to be in writing.

3. SHIPMENTS:

Shipment will be made per the customer's written or verbal instructions. Any shipping dates provided by H & H Specialties, Inc. are estimates only. All shipments are delivered to the shipper in good order and are F.O.B. H & H Specialties, Inc. South El Monte, CA 91733. Within (10) ten business days of customer's receipt of goods, customer shall check shipping container for damages and/or shortages and report any to carrier and H & H Specialties, Inc.; or shipment shall be deemed accepted in good order. The carrier is solely liable for damages during shipment regardless of who selected the carrier. No claims for damaged goods shall be made beyond (10) ten business days from customer receipt of goods.

4. RETURNED ITEMS:

No goods will be accepted for return unless prior written permission from H & H Specialties, Inc. has been obtained and in no event beyond the limited warranty period. A restocking and handling charge of up to 25% will be imposed if the claimed defect is not included within H & H Specialties, Inc.'s limited warranty stated herein, and the amount to be determined at the time of return and inspection at our factory. All merchandise **MUST BE RETURNED FREIGHT PREPAID**. Custom manufactured items and curved tracks are not returnable. The customer shall only return claims for defective items and may not return conforming product for alleged defects to any portion of a shipment. Customer shall not otherwise reject any shipment due to an non conformance until or unless H & H Specialties, Inc. has a reasonable period of time (not exceeding 30 days) to fix or replace such items.

5. LIMITED WARRANTY:

All equipment and merchandise manufactured by H & H SPECIALTIES, INC. is warranted to be free from defects of material or workmanship for a period of two years from date of shipment from our factory. All items not manufactured by H & H SPECIALTIES, INC. are warranted only to the extent and in the manner warranted by the original manufacturer. Modifications or alteration of any kind, or rental use of any equipment item invalidates any kind of warranty. H & H SPECIALTIES, INC. makes no representation of the suitability of any product or any application or installation of any product unless specific drawings are made by the factory and the products are installed in precisely the exact manner as detailed by our design staff. **NO ITEM OF H & H SPECIALTIES, INC. IS DESIGNED, INTENDED OR WARRANTED FOR THE USE OF LIFTING OR TRANSPORTING PEOPLE OR LIVING OBJECTS.** No claims will be honored or in circumstances where, in our opinion, the defect was caused by misuse, abuse, accident, alteration, improper installation, improper maintenance, Act of God, or any use in a manner not intended.

6. LIMITATION OF LIABILITY:

UNDER NO CIRCUMSTANCES WILL H & H SPECIALTIES, INC., IT'S AFFILIATES, SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH INCLUDES BUT IS NOT LIMITED TO, LOSS OF PROFITS, REVENUES OR SAVINGS, EVEN IF H & H SPECIALTIES, INC. HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES, WHETHER A CLAIM FOR SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) CLAIMS, DEMANDS OR ACTIONS AGAINST CUSTOMER BY ANY THIRD PARTY; (C) ANY LOSS OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S IMPLEMENTATION OF ANY CONCLUSIONS OR RECOMMENDATIONS BY H & H SPECIALTIES, INC. IN CONNECTION WITH THE PRODUCTS; OR (D) THE PRODUCT BEING UNAVAILABLE FOR USE. NOTWITHSTANDING THE FOREGOING, IN THE EVENT OF ANY LIABILITY CLAIMED, H & H SPECIALTIES, INC.'S ENTIRE LIABILITY FOR DAMAGES FROM ANY CAUSE WHATSOEVER SHALL NOT EXCEED THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM; OR (B) A MAXIMUM OF \$1,000.00. **H & H SPECIALTIES, INC. WILL NOT BE RESPONSIBLE FOR ANY DELAYS IN DELIVERY WHICH RESULT FROM ANY CIRCUMSTANCES BEYOND ITS CONTROL, INCLUDING WITHOUT LIMITATION, PRODUCT UNAVAILABILITY, CARRIER DELAYS, DELAYS DUE TO FIRE, SEVERE WEATHER CONDITIONS, FAILURE OF POWER, LABOR PROBLEMS, ACTS OF WAR, TERRORISM, GENERAL INSURRECTION, ACTS OF GOD OR ACTS OF ANY GOVERNMENT AGENCY.**

7. JURISDICTION/DISPUTE RESOLUTION:

The laws of the State of California and the Superior Court of Los Angeles County and the United States District Court of Los Angeles shall have the sole and exclusive jurisdiction of any dispute notwithstanding any State, or Federal or International or "Internet" law to the contrary. The parties agree to a voluntary 4 hour non-binding mediation of any dispute up to \$25,000 upon 30 days request by any party (except as to non-payment) before Judicial Arbitration Mediation Services, Los Angeles County, pursuant to their rules. The parties shall share the costs of the mediation services equally. The failure of either party to submit to mediation shall result in the non awarding of attorney fees to that party even if they prevail in a Court proceeding or arbitration. The prevailing party in a court proceeding or arbitration shall be entitled to its reasonable attorney fees and costs.