



OB Traffic - Terms & Conditions of Sale

Acceptance.

SELLER'S ACCEPTANCE OF BUYER'S PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL ON BUYER'S ACCEPTANCE OF THE FOLLOWING TERMS AND CONDITIONS OF SALE, WHICH ARE IN LIEU OF ANY ADDITIONAL OR DIFFERENT TERMS CONTAINED IN BUYER'S PURCHASE ORDER OR OTHER DOCUMENT OR COMMUNICATION PERTAINING TO BUYER'S ORDER OR THE GOODS. BUYER'S ASSENT TO THE TERMS AND CONDITIONS CONTAINED IN THIS DOCUMENT SHALL BE CONCLUSIVELY PRESUMED FROM BUYER'S ACCEPTANCE OF ALL OR ANY PART OF THE GOODS OR FROM PAYMENT BY BUYER FOR ALL OR ANY PART OF THE GOODS. NONE OF THESE TERMS AND CONDITIONS MAY BE ADDED TO, MODIFIED, SUPERCEDED OR OTHERWISE ALTERED, EXCEPT BY A WRITTEN INSTRUMENT SIGNED BY AN AUTHORIZED EXECUTIVE OF SELLER. FAILURE OF SELLER TO OBJECT TO ANY TERMS OR CONDITIONS WHICH MAY BE CONTAINED IN ANY DOCUMENT OR FORM OF BUYER SHALL NOT BE CONSTRUED AS A WAIVER OF THESE CONDITIONS, NOR AS AN ACCEPTANCE OF ANY SUCH TERMS AND CONDITIONS.

Limitation of Liability.

SELLER'S LIABILITY TO BUYER, WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE, SHALL NOT EXCEED IN ANY CASE THE RETURN OF THE AMOUNT OF THE PURCHASE PRICE PAID BY BUYER AND UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR SPECIAL, IN DIRECT OR CONSEQUENTIAL DAMAGES. THE PRICE STATED FOR THE GOODS IS CONSIDERATION FOR LIMITING SELLER'S LIABILITY. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS INVOICE MAY BE BROUGHT BY BUYER MORE THAN ONE (1) YEAR AFTER THE DATE OF THIS INVOICE. WITHOUT LIMITATION OF THE FOREGOING, IN NO EVENT WILL SELLER BE RESPONSIBLE OR LIABLE FOR (A) 15. PENALTIES OR PENALTY CLAUSES OF ANY DESCRIPTION, OR (B) INDEMNIFICATION OF BUYER OR OTHERS FOR COSTS, DAMAGES OR EXPENSES ARISING OUT OF OR RELATED TO THE GOODS.

Contract Terms

These Standard Terms and Conditions of Sale ("Conditions of Sale") shall apply to any purchase of Products or Services by the buyer from BMC Consolidated LLC, dba OB Traffic. To the extent that there is a conflict between these Conditions of Sale and a valid signed master agreement between the buyer and OB Traffic, the terms of the master agreement shall prevail. To the extent that there is a conflict between these Conditions of Sale and another set of OB Traffic terms and conditions issued to the buyer as part of the proposal or quotation process, the terms of the proposal or quotation document shall prevail. OB Traffic holds the right to amend Terms and Conditions at any time for any reason.

Services Assumptions:

OB Traffic's work estimates are based on work performed during normal work hours (8 hours) between the hours of 08:00 and 17:00 CDT, Monday to Friday, holidays excepted. No on-site orientation, safety training, work required for site specific requirements is included in a quotation unless expressly specified by OB Traffic.

Taxes

Unless otherwise set out in OB Traffic's proposal or quotation, prices do not include taxes, which are payable by buyer. The buyer shall be responsible for all such taxes, resulting from these Conditions of Sale or any associated purchase. OB Traffic is required to impose taxes on orders and shall invoice the buyer for such taxes according to applicable law or regulations, unless buyer furnishes to OB Traffic, at the time of order, a completed exemption certificate acceptable to the authorities imposing the tax. Buyer shall defend, indemnify, and hold harmless OB Traffic from and against all liabilities for such taxes or charges and attorneys' fees or costs incurred.

Terms of payment

Unless otherwise set out in OB Traffic's proposal or quotation, terms are net 30 days from date of invoice. Late payments will be subject to interest charges at the rate of two percent (2%) per month.

Delivery and Schedule

Dates for delivery, schedule, or execution for Services or Products set out on a Purchase Order are subject to confirmation by OB Traffic reserves the right to change such dates in the event additional information is necessary. OB Traffic reserves the right to make shipments in installments, unless otherwise expressly stipulated. OB Traffic will be excused from and not be liable for any non-performance of a Purchase Order if such delay or non-performance is due to any cause beyond the reasonable control of OB Traffic. Unless otherwise specifically agreed by the Parties, the Products are delivered FOB Factory and the risk of loss or damage shall pass to the buyer upon collection of the Products by the first carrier at OB Traffic's premises, plants or warehouses.

Force Majeure

OB Traffic shall not be liable for any failure in performance to the extent caused by an Act of God, riot, civil disturbance, Government Act or regulation, fire, flood, explosion, production delays, accident, or other cause beyond OB Traffic's reasonable control. The period of the contract shall be correspondingly extended by the period of such delay.

Return of Products (RMA)

Any requests for the return of Products because of "ordered in error" or "cancellation" (after shipment has been made), must be made within 30 days of shipment, or Product is otherwise deemed accepted. If product return approval is given by OB Traffic, a restocking charge may be deducted from the amount of credit issued by OB Traffic. All returns must be unused, in original factory condition, packaged in original factory packaging and returned to address designated on the RMA, freight prepaid by Buyer. All returns must be accompanied by a return authorization number (RMA) or product will be returned to buyer.

United States Export Laws

OB Traffic's obligations are subject to the export administration and control laws and regulations of the United States. Buyer shall comply fully with such laws and regulations in the export, resale or disposition of Products.

Indemnification.

In addition to the foregoing, Buyer agrees to save and hold Seller harmless from any claims, demands, liabilities, costs, expenses or judgments arising in whole or in part, directly or indirectly, out of the negligence or lack of care by Buyer or Buyer's customers, agents, employees or invitees involving the use of the goods supplied by Seller. This indemnification shall include all costs, attorney's fees and other expenses paid or incurred by or imposed upon Seller in connection with the defense of any such claim.

Governing Law.

Any agreement arising out of this transaction shall be deemed to have been made in Harris County, Houston, TX. The parties agree that the validity, interpretation and performance of any agreement arising out of this transaction shall be governed by the laws of the State of Texas without regard to conflicts of interest laws.