

# Warranty

The Company warrants to customer that the goods delivered hereunder shall be free from defects in material and workmanship, subject to variations within industry standards. This warranty shall extend for a period of ninety (90) days after date of delivery of articles to customer. This warranty is granted for the exclusive benefit of the customer and shall not accrue to the benefit of any end user or third party. **THE COMPANY MAKES NO WARRANTIES AS TO THE GOODS, EXCEPT AS DESCRIBED HEREIN, AND EXPRESSLY DISCLAIMS ALL OTHER, WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** All claims for shortages or apparent defects in quality shall be deemed waived unless made in writing prior to ninety (90) days after receipt of goods by customer (i.e., failure of customer to submit a warranty claim during the ninety (90) days period referenced in the preceding sentence shall be an admission by customer, as well as conclusive proof, that such goods are in every respect as warranted, and customer shall release the Company from any and all claims for loss or damage sustained by customer). Defective goods shall be held by customer at customer's expense for the Company's inspection. The Company's sole liability, and the buyer's sole remedy, for a breach of warranty shall be, at the Company's election, to remedy defects by repair, replacement or refund of the price paid for any defective goods which are the subject of proper notice. It shall be customer's responsibility to pursue claims against the carrier when goods have been damaged or lost in transit. Under no circumstances shall customer cancel this agreement as a result of the delivery of defective goods; **NOR SHALL THE COMPANY BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY DEFECT, SHORTAGE, DELAY OR ANY BREACH OF WARRANTY; NOR SHALL THE COMPANY'S LIABILITY UNDER ANY CIRCUMSTANCES, INCLUDING COMPANY'S NEGLIGENCE, EXCEED THE PRICE OF THE DEFECTIVE GOODS.**

Customer shall indemnify, defend and hold Company harmless from and against all liability, cost and expense for claims and actions of any kind by any third party (excluding customer, Company and their employees) for injury, alleged injury, death, property damage or alleged property damage arising out of or in any way connected with the use, possession or transfer of the goods manufactured and delivered hereunder. Notwithstanding customer's indemnification, in the event of a claim or lawsuit against Company, Company shall have the right to engage legal counsel on its own behalf, which legal counsel shall cooperate with legal counsel engaged by customer, in the defense of any such claim or lawsuit. Customer shall be in default of this agreement if (a) customer is in violation of any of the terms hereof, (b) any petition is filed against customer in any court, whether or not pursuant to any statute of the United States or any state, in any bankruptcy, reorganization, composition or extension and if such proceeding is not dismissed within ninety (90) days after the date of filing, (c) customer is unable to pay its debts as they become due, or (d) any representation made by the customer to Company pursuant to this agreement or any order hereunder is false or misleading. In the event that customer is in default, Company shall be entitled to all remedies available at law or in equity, including, but not limited to, the right to (a) withhold delivery of any undelivered goods, (b) recover lost cost and lost profits on any delivered goods, (c) repossess any previously delivered goods, (d) resell withheld or repossessed goods and recover damages from customer, (e) recover the contract price from customer on any delivered goods, and (f) recover expenses, including reasonable attorney's fees and incidental damages, on any delivered or undelivered goods