

# STARR MANUFACTURING, INC.



## TERMS AND CONDITIONS

1. An order submitted pursuant to a quotation shall be binding upon STARR MANUFACTURING, INC. ("Seller") when the party submitting the order ("Buyer") executes and delivers a Purchase Order ("PO"), and not otherwise. Seller does not assent to any terms or conditions other than those in Seller's Quotation and Order Acknowledgment forms.
2. Any errors incorporated in or appearing in Quotations and / or Order Acknowledgments are subject to correction by Seller.
3. No agent, employee, or representative of Seller is authorized to waive, modify, rescind, or revise any of these terms or conditions or any of the terms or conditions applicable to Seller's Quotations and / or Order Acknowledgment. To be effective, any waiver, modification, rescission or revision of any such terms or conditions must be in writing and signed by either the Sales Manager of Seller or an officer of Seller.
4. Seller's Quotation is not an offer to sell. Prices quoted are based upon existing conditions and are subject to change prior to acceptance of orders. All deliveries are quoted subject to prior sale.
5. Our Quotation and Order Acknowledgment include the terms and conditions stated below. Any purchase order submitted by Buyer pursuant to Seller's quotation shall be deemed to have been submitted by Buyer with the understanding that the following terms and conditions are applicable and controlling, notwithstanding the presence of any additional, different, or conflicting terms or conditions in Buyer's purchase order.
6. Seller shall not be liable for any failure or delay in delivery of any goods due in whole or in part to any fire, flood, accident, riot, demonstration, act of God, declared or undeclared war, strike or other labor difficulty, shortage or unavailability of fuel, power, raw materials or supplies, production breakdown, delay or failure of usual sources of transportation, requirement or request of any government or subdivision or agent thereof, or any other cause beyond Seller's control. Under any such circumstances Seller shall have such additional time within which to perform this contract as may be reasonably necessary and may, without liability for any failure to perform the contract, allocate its available time and materials among any or all of Seller's customers, in such a manner as Seller, in its sole discretion, may select. **SELLER SHALL NOT BE LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR FAILURE OF OR DELAY IN PERFORMANCE OR DELIVERY DUE TO ANY CAUSE WHATSOEVER.**
7. Buyer may not change any order in any respect (including but not limited to specifications, quantities, or release dates) unless (a) Buyer provides written notice to Seller of its requested change, and (b) Seller confirms its acceptance of such change via a written Order Acknowledgment signed by either the Sales Manager of Seller or an officer of Seller. If Seller has commenced work on Buyer's order as of the date Seller receives such written notice from Buyer, then in addition to all other rights and remedies that Seller may have under applicable law, Seller shall be entitled to recover from Buyer all costs incurred in connection with such work through such date and all expenses that Seller may incur if it agrees to accept Buyer's requested change.
8. **SELLER WARRANTS, TO BUYER ONLY, THAT ALL GOODS SOLD SHALL CONFORM TO THE DESCRIPTION AND SPECIFICATIONS PROVIDED BY THE BUYER AND SHALL BE FREE FROM MANUFACTURING DEFECTS THAT MATERIALLY IMPAIR THE VALUE OF THE GOODS, EXCEPT THOSE DEFECTS THAT ARE ASCERTAINABLE ONLY THROUGH RADIOGRAPHIC GAMMA RAY OR OTHER NON-VISUAL TESTING METHODS, UNLESS SUCH TESTING METHODS ARE SPECIFICALLY REQUESTED BY BUYER AND CONSENTED TO BY SELLER IN WRITING.**
9. There are no warranties which extend beyond the description on the face hereof.
10. **SELLER MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING THAT OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**
11. **BUYER'S REMEDY AND SELLER'S LIABILITY, WHETHER IN TORT OR CONTRACT, FOR ANY NON-CONFORMING OR DEFECTIVE GOOD SHALL BE LIMITED SOLELY TO REPLACEMENT OF THE GOOD AT ORIGINAL POINT OF DELIVERY, REPAIR OF THE GOOD, OR REFUND OF THE PURCHASE PRICE OF THE GOOD, AT SELLER'S OPTION. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES.**
12. **BUYER SHALL DEFEND SELLER AGAINST, INDEMNIFY SELLER FOR, AND HOLD SELLER HARMLESS FROM ALL LOSSES, COSTS, AND EXPENSES, INCLUDING ATTORNEYS' FEES, INCURRED IN CONNECTION WITH ANY CLAIM ASSERTED AGAINST SELLER BY ANY PERSON OR ENTITY SEEKING, ON ACCOUNT OF ANY ALLEGED DEFECT OR DEFICIENCY IN ANY GOOD SOLD BY SELLER TO BUYER, ANY RECOVERY BEYOND THE LIMITED RECOVERY AVAILABLE TO BUYER UNDER THIS PARAGRAPH.**
13. Buyer shall notify Seller in writing of any claim with respect to any good sold hereunder as soon as possible and in any event no later than 30 working days after delivery of such good. **BUYER'S FAILURE TO PROVIDE WRITTEN NOTICE OF A CLAIM WITHIN 30 WORKING DAYS AFTER DELIVERY SHALL CONSTITUTE AN IRREVOCABLE ACCEPTANCE OF THE GOODS DELIVERED AND A WAIVER OF ANY CLAIM WITH RESPECT TO SUCH GOODS.**
14. **ANY ACTION BASED UPON OR ARISING OUT OF THE CONDITION OF ANY GOOD SOLD HEREUNDER MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.**
15. Unless Buyer notifies Seller to the contrary, in writing, prior to Seller's commencement of production, Buyer represents and warrants that the goods it purchases from Seller are not to be, and will not be, used in products for sale into countries upon which the United States Government has placed trade sanctions or any other prohibition regarding the sale or delivery of goods.
16. In the case of any good that is manufactured or sold to meet Buyer's specifications or requirements: (a) Buyer warrants that neither the manufacture, sale, nor use of such good shall infringe any United States or foreign patent, trademark, or copyright, and Buyer shall, at its sole expense, defend any suit or proceeding brought against Seller based upon or arising out of any such claim of infringement and shall, in addition, indemnify and hold harmless Seller against all losses, costs and expenses, including attorneys' fees, assessed or incurred in connection with any such claim; and (b) Buyer further warrants that its specifications and requirements provided to Seller are sufficient to make the good merchantable and fit for the purpose for which Buyer intends the good, and Buyer shall defend, indemnify, and hold harmless Seller against all claims, losses, costs, and expenses, including attorneys' fees, asserted, assessed or incurred as a result of any breach of such warranties.
17. Buyer warrants that it has the requisite technical skill and training to use the goods. Any technical assistance and/or technical advice provided by Seller to Buyer regarding the goods is not provided as consideration under this agreement and does not modify or amend the warranties and disclaimers contained herein.
18. No waiver by Seller of any breach of any provision hereof shall constitute a waiver of any other breach or of such provision. Seller's failure to object to any provision contained in any communication from Buyer shall not be deemed to be an acceptance of such provision or a waiver of the provisions of this contract.
19. If a receiver or trustee for the benefit of creditors is appointed for Buyer, or if Buyer files bankruptcy or becomes the subject of an involuntary petition in bankruptcy, or if Buyer makes an assignment for the benefit of creditors, then in any such event Seller shall have the right to refuse any additional delivery of goods and cancel any unfilled order of Buyer without incurring any liability whatsoever.
20. Buyer's failure to make any payment due to Seller shall give Seller the right to suspend work until payment is made by Buyer. In addition, Seller may pursue any and all legal remedies Seller may have against Buyer, including, but not limited to, terminating any agreement and recovering the price of all work done and materials provided and all damages sustained. Any failure by Buyer to make any payment when due shall also bar any later claim by Buyer for delay in completion of any work.
21. Seller's standard payment terms are ½% 10 Net 30 or as outlined in the order acknowledgment or STARR MANUFACTURING, INC. lease contract.
22. In the event Buyer breaches any provision of its contract with Seller, Seller shall be entitled to recover from Buyer Seller's reasonable attorneys' fees incurred in pursuing any remedies to which Seller may be entitled as a result of such breach.
23. Any accepted Purchase Order from Buyer and Order Acknowledgment from Seller constitute the entire agreement between Buyer and Seller, and Buyer and Seller intend it to be the complete and final statement of the terms and conditions of their agreement. No agent, employee, or representative of Seller is authorized to bind Seller to any affirmation, representation, or warranty concerning the goods sold under this agreement; unless an affirmation, representation, or warranty is specifically included within this written agreement, it has not formed a part of the basis of this bargain. Additional, different, or conflicting terms in Buyer's purchase order shall have no force or effect. No waiver, modification, rescission or revision of any term or condition shall be effective unless it is in writing and signed by an officer of Seller.
24. These Terms & Conditions shall be interpreted and applied in accordance with the laws of the State of Ohio. Any dispute between Seller and Buyer shall be subject to commercial arbitration pursuant to the rule of the American Arbitration Association. Any arbitration shall be held in Warren, Ohio.