

HETTICH AMERICA L.P. – TERMS AND CONDITIONS OF SALE

1. **Special Terms.** All terms and conditions contained in Buyers purchase orders or elsewhere which are in different from, in addition to, conflict with, or vary the terms hereof are hereby objected to, rejected and shall not be binding on the seller. Seller's acceptance and shipment of any order of Buyer is expressly conditioned upon, and Buyer shall be deemed to have assented to, the terms and conditions of sale set forth herein, effective as of the date performance by Seller commences. Order confirmations, shipments, and deliveries may be suspended or cancelled by Seller if Buyer's credit is or becomes unsatisfactory to Seller. Prices and specifications are subject to change by Seller without notice. Cancellations of orders must occur prior to Seller's shipment, and are subject to a service charge to cover the costs of initial processing or production. Goods are not to be returned to Seller without Seller's written consent. Returns of goods, other than defective goods, will be subject to a restocking charge equal to twenty (20%) of the price of such goods. Goods damaged during shipment shall not be returned to Seller, as Seller is not responsible for such damaged goods. Risk of loss passes to Buyer when goods are delivered to carrier at the shipping point, and all orders and prices are F.O.B. Seller's warehouse, Buford, Georgia. Within ten (10) days of receipt by Buyer of the good supplied to it by Seller, Buyer must give written notice to Seller of any claim by Buyer based on the condition, quantity, grade, or non-conformity of the goods (a "Delivery Claim"), which notice must indicate the basis of the Buyer's Delivery Claim in detail. Failure to make a Delivery Claim within said ten day period shall constitute a waiver of any right of Buyer to make a Delivery Claim, shall constitute Buyer's irrevocable acceptance of the goods, and shall bind Buyer to pay the Seller the full price of such goods.
2. **Terms of Payment.** Buyer expressly acknowledges and agrees that Seller's invoices shall be delivered to Buyer by electronic mail (e-mail). Without any setoff or deduction whatsoever, Buyer shall make payment to Seller in U.S. dollars in the amount and at the address shown on Seller's invoice within thirty (30) days from date of this invoice. Interest and late charges will be added to all past due balances. The late charge shall be five percent (5%) of the amount due; the interest shall be 1.5% per month or the legal maximum, whichever is less. Buyer shall further be liable to Seller for the costs of collection plus reasonable attorney's fees.
3. **Seller's Disclaimer and Buyer's Agreement to Defend.** Seller shall not have any liability or responsibility for, and Buyer agrees to indemnify, defend, protect, and hold Seller harmless from and against all legal fees and expenses, damages, claims, and demands arising out of or awarded in connection with, any goods sold or supplied to Buyer by Seller which (i) are not installed, used, maintained, and operated in accordance with Seller's specifications, recommended procedures and the ordinary purpose or purposes indicated in the Seller's catalog, or (ii) are manufactured and sold by Seller to meet Buyer's specifications, requirements, or instructions.
4. **Limited Warranties.** Seller warrants to Buyer for a period of ninety (90) days from date of shipment by Seller that the goods supplied by it to Buyer are of good materials and workmanship and conform to the catalog description or other specifications. Seller further warrants for said ninety day period that the goods supplied by it are fit for the ordinary purpose or purposes indicated in the catalog or other specifications and for which such goods are normally used when properly installed and used. THE FOREGOING WARRANTIES ARE EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED (WHETHER WRITTEN OR ORAL), INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. Any such "Warranty Claim" not made within said ninety day period shall be deemed to be waived by Buyer. If Seller receives timely written notice of any Warranty Claim and complies with Seller's instructions regarding return of goods, Seller will, in its sole discretion, repair, replace, or provide a credit to Buyer with respect to any goods warranted herein which are defective in workmanship or materials. In addition, Buyer shall notify Seller in writing no later than thirty (30) days after any accident or malfunction involving goods manufactured or sold by Seller.

HETTICH AMERICA L.P. – TERMS AND CONDITIONS OF SALE

5. **Limitation of Remedies.** SELLER SHALL NOT BE LIABLE FOR ANY DAMAGE, DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONTINGENT OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY FROM ANY DEFECT IN THE GOODS SHIPPED BY SELLER, FROM THE MANUFACTURE, PACKAGING, SALE, DELIVERY (OR FAILURE TO DELIVER), STORAGE OR THE USE THEREOF FROM BUYER'S INABILITY TO MAKE USE THEREOF. THE DISCHARGE OF SELLER'S WARRANTY OBLIGATION AS PROVIDED IN PARAGRAPH 4 SHALL CONSTITUTE FULFILLMENT OF ALL LIABILITIES OF SELLER TO BUYER, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE. THE REMEDIES SET FORTH HEREIN SHALL BE THE EXCLUSIVE REMEDIES AVAILABLE TO BUYER, AND THE LIABILITY OF SELLER, WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY OBLIGATION OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE GOODS SOLD, SUPPLIED, OR FURNISHED BY SELLER ON WHICH THE LIABILITY IS BASED.

Any other claim by Buyer arising out of, or relating to, this agreement, other than a Warranty Claim or a Delivery Claim, must be commenced within one (1) year after the date of shipment by Seller. This exclusive remedy shall not be deemed to have failed of its essential purpose so long as Seller is willing to credit Buyer's account in the manner prescribed herein or to repair or replace any defective goods. The Uniform Commercial Code as adopted in the State of Georgia shall govern the construction and interpretation of all the agreements between Seller and Buyer.

6. **Claims, Arbitration.** Any Warranty Claim, Delivery Claim or any other claim made by the Buyer under this Agreement shall be made in writing and received by Seller within the applicable period specified in this Agreement. Additionally, the parties acknowledge and agree that goods shipped by Seller, or the manufacture, packaging, sale, delivery (or failure to deliver), storage or the use thereof or from Buyer's inability to make use thereof "involves" interstate commerce (as defined in the United States Arbitration Act, Title 9, United States Code (the "Act")), and therefore all claims, controversies or disputes, including those relating to this paragraph, and including, but not limited to, any allegations of fraud (including fraud in the inducement), unfair trade practices or other tortious actions, arising from or otherwise related to any agreement between Seller and Buyer, and whether against one of the parties hereto, or any of their respective suppliers, affiliates, predecessors, successors, assignees, distributors, retailers, wholesalers, agents, independent contractors or employees (each a "Claim"), shall be settled in the federal judicial district in which Seller's main office is located by binding arbitration. No Claim may be arbitrated on a class-action basis. Notwithstanding anything contained herein to the contrary, Seller shall have the right to use judicial (i.e., file a lawsuit) or non-judicial relief to enforce a security agreement relating to the goods or any monetary obligation of Buyer without the requirement of first seeking arbitration, but the institution and maintenance of any such action for judicial relief shall not constitute a waiver of the right of any party to compel arbitration as otherwise provided herein as to the filing of the counterclaim in any such action.
7. **No Implied Waivers.** The failure of either party at any time to require performance by the other of any provision hereof shall in no way affect the full right to require performance at any time thereafter, nor shall the waiver by either party of a breach of any provisions hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.
8. **Notices.** All notices to Seller must be in writing, addressed to the Chief Executive Officer of Seller at 4295 Hamilton Mill Road, Suite 400, Buford, Georgia 30518, USA, and will be effective upon actually being received by such Chief Executive Officer.
9. **Force Majeure.** Seller shall not be liable for any default or delay in production or delivery of all or any goods resulting either directly or indirectly from (a) accidents to, breakdowns of, or mechanical failure of Seller's plant machinery or equipment; strikes or other labor trouble; labor shortages; fire; flood; wars; acts of terrorism; acts of God; delays of suppliers; delays in transportation or lack of transportation facilities; embargoes; shortages of or reduction in energy sources; priorities, allocations, limitations, restrictions, or other acts required or requested by federal, state, or local governments, or any subdivisions, bureau or agency thereof; or (b) any cause beyond the control of the Seller.