

## STANDARD TERMS & CONDITIONS OF SALE

These terms apply to all sales of Sparks' products and services. Sparks objects to any different or additional terms proposed by a Customer and rejects any offer or purchase order including different or additional terms, but instead offers to contract on these terms and conditions.

1) ORDERS:

Orders are subject to acceptance by Sparks at either its headquarters in Grand Rapids, MI or one of its branch offices.

2) PRICES & PAYMENT:

- a. All prices shall be quoted and paid in U.S. dollars.
- b. Sparks may change its published prices at any time without prior notice. The Customer shall have the option of (1) authorizing Sparks to ship the balance of its order at once at the original price, or (2) canceling the unshipped portion of the order, subject to process completion, within one week after receipt of the notice.
- c. Formally quoted prices shall remain valid for the duration of Sparks written commitment.
- d. Prices do not include, and the Customer will pay upon request, any taxes which Sparks is required to pay or collect with respect to the sale, delivery, transportation, storage or use of any goods or services provided by Sparks.
- e. Prices do not include export-related costs such as duty, documentation or special packaging.
- f. Payment terms are net 30-days from date of invoice. If a Customer's financial condition or credit rating does not in Sparks' judgment justify sale on open account, Sparks may require an advance deposit or payment in full or may ship C.O.D.

Customers shall pay late charges of 1½% per month (or such lesser amount as the law permits) on any invoices not paid when due.

3) DELIVERY:

- a. Sparks will use its best efforts to ship from the U.S. stocking location capable of providing the required products and services that is closest to the Customer.
- b. Delivery terms are F.O.B. shipping point (i.e., freight is the Customer's responsibility) on all shipments. At the Customer's request, Sparks will prepay freight and add it to our invoice.
- c. Sparks will determine the method of shipment, choice of carrier and routing, unless the Customer specifies a preferred method of shipment prior to/at the time of order entry.
- d. The Customer has the risk of loss as soon as Sparks turns the products over to the carrier. Insurance and claims for loss, damage or delay in transit are also the Customer's responsibility, even if Sparks prepays the freight charges.
- e. Shipping dates are estimates and time is not of the essence.

4) RETURNS, CANCELLATIONS, CHANGES:

- a. All returns require Sparks' prior approval and a Returned Goods Authorization (RGA) number, which must be clearly noted on the outside of every return shipment. Returns must be made freight prepaid and are subject to restocking charges, unless waived by Sparks. All products are to be returned to the facility of original shipment. All product returned is to be free of debris, pollution and contaminants and may not include any hazardous materials.
- b. Orders may be canceled by the customer only at Sparks' discretion and are subject to such cancellation and restocking charges as Sparks may require. Cancellation requests must be received by Sparks in Grand Rapids, MI, or one of its branch offices prior to shipment.
- c. Sparks may make changes in the design, composition and method of manufacture of its products without affecting Customer's obligations, except for changes in operational or dimensional specifications that result in the products no longer meeting the Customer's requirements.

5) STANDARD LIMITED WARRANTY:

- a. Sparks warrants its products to be free from defects in materials and workmanship during the warranty period. Sparks will, at its option, repair, replace or refund the purchase price of any product returned by a Customer, freight prepaid, within the warranty period that proves, to Sparks' reasonable satisfaction, to have been defective. The warranty period is 12-months from date of Sparks' invoice, with two exceptions: (1) For conveyor belting, the warranty period shall not exceed the product's expected useful life under actual operating conditions; and (2) For motorized pulleys sold to an OEM, the warranty period is 12-months from date of commissioning of the equipment incorporating the products (as established and confirmed in writing by the OEM).

- b. This warranty does not apply to products which have been altered or repaired, except by Sparks, or which have been damaged, misused, improperly installed or used for inappropriate applications, or that have not been serviced or maintained as recommended by Sparks.
  - c. This warranty is in place of all other warranties, express or implied. THERE IS NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE IN CONNECTION WITH THE SALE OF SPARKS PRODUCTS. This warranty is the Customer's sole and exclusive remedy for any defect in or malfunction of the products Sparks sells.
  - d. Sparks shall not be liable to any party for any incidental or consequential loss, damage or expense whatsoever, whether or not foreseeable, including property damage, lost profits or other economic injury, arising out of the installation, use or maintenance of Sparks' products.
  - e. The Customer will hold Sparks harmless from claims of third parties arising out of express or implied warranties made by the Customer that are different from or additional to this Warranty.
- 6) **FORCE MAJEURE, INSTALLMENTS AND UNAUTHORIZED ALTERATIONS:**
- a. Sparks is not liable for any delay or failure of performance resulting from causes beyond Sparks' control, such as: wars or civil disturbance, accident, weather, fire, flood or other acts of God, material shortages, strike or labor unrest, equipment breakdown, or governmental action.
  - b. If the Customer and Sparks have agreed that an order shall be shipped in installments, late delivery of one installment shall not entitle the Customer to reject subsequent installments.
  - c. The Customer will install and operate the products Sparks sells safely and in accordance with Sparks' instructions and warnings and will not remove or change any safety devices or warnings Sparks may have installed or provided.
  - d. The Customer shall indemnify and hold Sparks harmless from claims of or liabilities to third parties, including Customer's employees, for damages for personal injury, including death, or property damage allegedly caused by any product found to have been repaired, modified, altered or misused by the Customer (or any other party) without Sparks' prior knowledge and approval, or resulting in whole or in part from the removal, disabling or change by the Customer (or any other party) of any safety devices or warnings Sparks may have installed, provided or recommended.
- 7) **SECURITY FOR UNPAID PURCHASE PRICE:**  
The Customer represents to Sparks that it is solvent and able to pay its debts as they mature. To secure payment of any unpaid portion of a purchase price, Sparks retains security interest in the products sold and their proceeds. The Customer shall execute any documents and take any action Sparks reasonably requests in order to perfect or realize upon its security.
- 8) **NOTICES:**
- a. All communication between the Customer and Sparks concerning these Terms and Conditions of Sale must be in writing and delivered in person, by certified mail (return receipt requested), by private express delivery service (i.e. Fed Ex) or, if confirmed by one of the above, by e-Mail or FAX.
  - b. Such communications should be directed by the Customer to Sparks' offices in Grand Rapids, MI, or one of its branch offices; or by Sparks to the address specified on the Customer's order or acceptance of quotation.
- 9) **REMEDIES, WAIVER, SEVERABILITY:**  
Sparks shall have all rights and remedies available to sellers under the law. Waivers are not effective unless in writing signed by the party to be charged. If any of these terms are found to be invalid or unenforceable, they shall be limited or deleted so as to make the remaining provisions enforceable.
- 10) **GOVERNING LAW, DISPUTE RESOLUTION, TIME FOR BRINGING ACTION, LIMITATION OF DAMAGES:**
- a. All sales will be governed by Michigan law. The provisions of the U.N. Convention on the International Sales of Goods shall not apply.
  - b. The Customer consents to the personal jurisdiction of and venue in any federal or state court in Kent County, MI, for the adjudication of any controversy between Customer and Sparks arising out of or in connection with the sales of products and services by Sparks. The Customer waives any objection that such court is an inconvenient forum.
  - c. Any action by a Customer against Sparks for breach of the contract of sale or for any other claim relating to the products or services Sparks sells must be brought within one year after the cause of action accrues. Sparks shall not be liable for any incidental or consequential loss, damage or expense, even if foreseeable, including property damage, lost profits or other economic injury, arising out of any delay in delivery, non-delivery or other breach of the contract of sale.