

TERMS AND CONDITIONS OF SALE

1. **Orders:** All orders are subject to acceptance by Col-Tab, Inc. ("Seller"). Orders will be deemed accepted only when confirmed in writing or when Seller begins performance. To the extent Customer's order contains provisions that are in addition to or that are inconsistent with these Terms and Conditions of Sale (these "Terms"), the provisions in Customer's order will be disregarded.
2. **Prices; Taxes:** Prices are determined on an individual order basis. All prices quoted by Seller are exclusive of city, state and federal excise taxes. Customer will pay all applicable excise, sales or other taxes.
3. **Terms of Sale; Time Limit for Objecting to Invoice Amounts:** Payment for all products sold by Seller (the "Products") and all services performed by Seller (the "Services") on open account will be due and payable 30 days following the date of the invoice unless otherwise stated on the face of that invoice. Any sums not paid when due are subject to a service charge of 1.5% per month or the maximum rate permitted by law, whichever is lower. Seller's invoices will not be subject to any audit claim by Customer, and the amount reflected in those invoices will be deemed accepted and conclusively binding upon Customer as an account stated unless Customer notifies Seller in writing within 5 days after the date of the relevant invoice.
4. **Credit; Security Agreement:** Seller does not extend credit on a consumer, non-business basis. Customer hereby warrants that all purchases made from Seller for which credit is extended will be used solely for commercial purposes. All shipments and deliveries will be at all times subject to the approval of Seller's Credit Department. To secure payment and performance of all of Customer's current and future obligations to Seller, Customer hereby grants to Seller a security interest in all Products that Customer has purchased or at any time in the future may purchase from Seller. If Customer fails to make any payment when due or if Customer is discovered to be insolvent, Seller may, at its discretion, and in addition to any and all other rights and remedies available under law or under other agreements, cancel any purchase order or contract with Customer, cease manufacturing orders or refuse shipments to Customer; stop delivery of any Product in transit; reclaim any Product; immediately terminate Customer's ability, if any, to purchase Products or receive Services on credit; and exercise all other rights provided by the Uniform Commercial Code and the laws of Oregon.
5. **Limited Warranty; Limited Remedy:** Seller warrants only to the Customer, as original purchaser, that the Products and Services conform to the description on any order accepted by Seller, subject to tolerances and variations usual and customary in the industry, and Seller warrants title. SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE. Should any Product or Service fail to conform to this limited warranty, SELLER'S SOLE OBLIGATION WILL BE TO REPAIR OR REPLACE THE PRODUCT, TO REPERFORM THE SERVICES OR TO REFUND OF THE PURCHASE PRICE, at Seller's option, and then only if: (1) Customer gives Seller written notice specifying in detail the nonconformity or defect within 10 days from the date of delivery or performance, and in the case of Products, Customer returns the Product upon Seller's request; (2) the Product or Services in fact are nonconforming or defective; and (3) terms of payment have been fully met. THE PRECEDING REMEDIES WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, WHETHER IN CONTRACT, TORT, OR OTHERWISE. Some states do not allow limitations on how long an implied warranty lasts, so the limitations and exclusions in these Terms may not apply to Customer. This warranty gives Customer specific legal rights, and Customer may also have other rights which vary from state to state.
6. **Limitation of Liability:** IN NO EVENT WILL SELLER BE LIABLE FOR ANY LOST PROFITS, LOSS OR DAMAGE ARISING OUT OF THE USE OF OR THE INABILITY TO USE ANY PRODUCTS OR SERVICES OR FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY TYPES OR NATURE. IN NO EVENT WILL SELLER'S OBLIGATION TO CUSTOMER EXCEED THE INVOICE PRICE. Some states do not allow the exclusion or limitation of incidental damages, so these limitations and exclusions may not apply to Customer.
7. **Cancellation:** In order to cancel an order that has been entered into Seller's order system, Customer must notify Seller in writing at least **5** days before to the requested shipment or performance date, and in any event cancellation is subject to Seller's approval. Customer understands that all Products ordered by Customer will be manufactured by Seller for Customer's specific needs, and those Products will have no value to Seller. Customer further acknowledges that when Customer places a long-term supply order and schedules installment shipment and payment over a period of time, Seller may manufacture the Products at anytime. Customer will be liable for all the Products ordered, including without limitation those actually manufactured by Seller pursuant to such order, whether or not those Products have been delivered to Customer.
8. **Force Majeure:** Seller will under no circumstances be responsible or liable for failure or delay in filling any order or orders when due to: fires; floods; riots; strikes; mill shortages; freight embargoes or transportation delays; shortages of labor, fuel or power; inability to secure materials or supplies at current prices or on account of shortages of materials or supplies; acts of God or of the public enemy; any existing or future laws or acts of the federal or of any state government affecting the conduct of business; or due to any other cause beyond Seller's reasonable control, whether or not affecting the procurement, production or transportation of the particular order.
9. **Shipping; Risk of Loss; Delays and Deliveries; Inspection-Claims:** Unless otherwise specified in the invoice, all Products are sold FOB shipping point. That means that risk of loss or damage to Products will be upon Customer when Seller delivers the Product to the carrier. Customer agrees to thoroughly and carefully inspect all Products and shipping papers promptly upon delivery. No claim for shortage or damaged material will be valid or enforceable against Seller unless written notice specifying in detail the nature and extent of that shortage or damage is mailed to Seller within 5 days from the date of delivery accompanied by the original freight bill, with notation on its face by the authorized agent of the carrier as to the items and quantities claimed to be short or damaged.

10. **Modifications; No Waiver:** No supplement, modification, or amendment of these Terms will be binding unless agreed to in writing by Seller. None of these Terms will be deemed to have been waived unless such waiver is set forth in writing and signed by Seller. These Terms will not be subject to modification or waiver by course of performance, course of dealing, or usage of trade. Notwithstanding the preceding, Customer agrees that Seller may rely on telephonic or other instructions received from any person purporting to be an authorized agent of Customer.

11. **Fees; Governing Law; Venue:** Customer will pay all of Seller's costs, collection agency commissions, expenses and reasonable attorney fees before trial, at trial and on appeal in collecting any past due sums. The substantive laws of Oregon, excluding choice of law rules, will govern. Customer agrees that any dispute relating to the transactions between Seller and Customer will be tried before a court located within the state of Oregon.