

INVOICE TERMS AND CONDITIONS

As used herein, "Buyer" includes Buyer, its subsidiaries and affiliates; "Henry" includes Henry Company LLC, its subsidiaries and affiliates. Buyer and Henry agree as follows:

1. SCOPE

The Invoice Terms and Conditions ("Terms") contained herein shall apply to all quotations and offers made by, and purchase orders accepted by, Henry. The Terms apply to all sales made by Henry. The Terms apply in lieu of any course of dealing between the parties or usage of trade in the industry. In the event the Terms conflict with any of the terms and conditions affixed to the purchase order or other procurement document issued by the Buyer, the Terms contained herein shall govern, and acceptance of Buyer's order is conditioned upon Buyer's acceptance of the Terms contained herein, irrespective of whether the Buyer accepts these conditions by a written acknowledgement, by implication, or acceptance and payment of products ordered hereunder. Henry's failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions herein. Any changes in the Terms contained herein must specifically be agreed to in writing and signed by an officer of Henry before becoming binding on either party.

2. BUYER'S ORDER

a. Pricing & Taxes

Shipping and handling are additional unless otherwise expressly indicated at the time of sale. Prices are subject to change on seven (7) days' notice to Buyer. Any order that can be cancelled and rescheduled pursuant to this paragraph 2 is subject to a price change immediately. All prices are exclusive of any present or future sales, revenue or excise tax, value added tax, turnover tax, import duty (including brokerage fees) or other tax applicable to the sale of any product. Such taxes, when applicable, shall be paid by Buyer unless Buyer provides a proper tax exemption certificate. Unless otherwise agreed to in writing by the parties, prices quoted by Henry are those current at the date of quotation and shall be subject to variation by Henry.

b. Cancellation

(1) Buyer's Cancellation: Buyer may cancel or reschedule any order only for standard products (products regularly kept in Henry's normal inventory), provided both (i) the size of the order is within normal volume levels regularly maintained in inventory by Henry of such product and (ii) Henry receives notice of such cancellation no later than seven (7) days prior to the scheduled shipment date. Buyer may not cancel any order for nonstandard parts, custom products, special order products or standard parts with minimum usage. In the event of any cancellation or rescheduling permitted hereunder, Buyer shall pay promptly to Henry the costs of settling and paying claims arising out of the termination of work under Henry's subcontracts or vendors and any accounting, legal, and clerical costs arising out of the cancellation.

(2) Henry's Cancellation: Henry shall have the right to cancel any pending purchase order or any delivery in progress without notice to Buyer in the event that Henry determines that Buyer submitted false or misleading information of any kind or nature to Henry, Buyer becomes insolvent, adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, has failed to pay debts as they mature, fails to give any required notice or becomes unable to meet its financial obligations in the normal course of business. Any order that can be cancelled or rescheduled by Buyer pursuant to paragraph 2.b(1) may be cancelled or rescheduled by Henry if like notice is given to Buyer.

c. Return Policy

Buyer may only return product provided (i) Henry's authorized representative approves such return, which approval shall be in Henry's sole discretion, (ii) Buyer returns it with a restocking fee equal to 20% of the invoice amount for the returned product, (iii) the products have not been used, modified, altered or damaged, and (iv) the products are returned within forty five (45) days of delivery by Henry to Buyer, with transportation and shipping charges prepaid by Buyer.

Special orders or non-stock items may not be returned. Other than items Henry stocks which meet (i) and (ii) above, credit memoranda issued for authorized returns shall be subject to the following deductions:

(a) cost of putting items in a salable condition; (b) transportation charges, if not prepaid; and (c) handling and restocking charges.

d. Special Orders

With respect to any "special order" products supplied in accordance with Buyer's designs, specifications or instructions, Buyer shall indemnify, defend and hold harmless Henry from and against all liability, loss, damage, and expense, including attorneys' fees, resulting from any actual or claimed trademark, patent, or copyright infringement, domestic or foreign, or any litigation based thereon. Such obligation shall survive acceptance of goods and payment by Buyer hereunder.

3. PAYMENT TERMS

Unless otherwise agreed to in writing, payment terms shall be net thirty (30) days from the date of invoice. Henry shall retain a security interest in the products until Buyer makes its final payment to Henry for the products. Buyer agrees to pay interest on any unpaid balance at a rate of five percentage points above the annual Federal Funds rate as specified in the Wall Street Journal on the day the balance becomes due, or such maximum lesser rate as may be permitted by law. Unless otherwise agreed in writing, all payments are to be in United States dollars. Where payment is made by letter of credit, all costs of collection shall be for Buyer's account. In the event it becomes necessary to incur any expense for collection of any overdue account, including the cost to bring legal action, reasonable collection charges, including reasonable attorneys' fees and costs of suit, will be added to the balance due and Buyer shall pay all such charges.

4. HENRY'S REMEDIES

Upon default by Buyer of any of its obligations under the Terms, Buyer agrees to reimburse Henry for all attorneys' fees and costs incurred by Henry in connection therewith. Buyer agrees that any of the following shall constitute an event of default which shall enable Henry, at its option, to cancel any unexecuted portion of this order pursuant to paragraph 2.b(2) or to exercise any right or remedy which it may have by law: (a) the failure of Buyer to perform any term or condition contained herein; (b) any failure of Buyer to give required notice; (c) the insolvency of Buyer or its failure to pay debts as they mature, an assignment by Buyer for benefit of its creditors, the appointment of receiver for Buyer or for the materials covered by this order or the filing of any petition to adjudicate Buyer bankrupt, (d) the death, incompetence, dissolution or termination of existence of Buyer; (e) a failure by Buyer to provide adequate assurance of performance within ten (10) days after a justified demand by Henry, or (f) if Henry, in good faith, believes that Buyer's prospect of performance under the Terms is impaired. All rights and remedies of Henry herein are in addition to, and shall not exclude, any rights or remedies that Henry may have by law.

5. DELIVERY; SHIPPING; RISK OF LOSS

Shipping dates are estimates only. Henry will make a good faith effort to complete delivery of the products as indicated by Henry in writing, but Henry assumes no responsibility or liability and will accept no charge for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Henry, including, but not limited to, liability for Henry's delay or non-performance caused by acts of God, war, labor difficulties, accidents, inability to obtain materials, delays of carriers, contractors or suppliers or any other causes of any kind whatsoever beyond the control of Henry. Under no circumstances shall Henry be liable for any special, consequential, incidental, indirect, or liquidated damages, losses, or expenses (whether or not based on negligence) arising directly or indirectly from delays or failure to give notice of delay.

All products are sold f.o.b. shipping point with transportation at the expense of Buyer. – title and risk of loss to products pass from Henry to Buyer on shipment from Henry's facility. Loss or damage that occurs during shipment is Buyer's responsibility regardless of whether the carrier was selected by Henry or Buyer and regardless of whether the cost of shipment is borne by Henry or Buyer.

Buyer shall notify Henry within ten (10) days of receipt of the products if Buyer believes any portion of Buyer's order is missing, incorrect or damaged. Failure to notify Henry in writing of any such missing, incorrect or damaged products within such period shall be deemed an unqualified waiver of any right to return products on a basis that Buyer's order has missing, incorrect or damaged products.

6. WARRANTY

Except as specified otherwise herein, products sold hereunder shall be free from defects in manufacturing for a period of one (1) year from the date of shipment of the products. The foregoing warranty does not apply to any products which have (i)

been subject to misuse, neglect, accident or modification, (ii) been altered such that they are not capable of being tested under normal test conditions, or (iii) not been applied in strict accordance with Henry published specifications, as published on www.henry.com in effect at the time of purchase. Henry shall make the final determination as to whether any product is defective. Henry's sole obligation for products found to be defective, and subject to the terms of this warranty, shall be, at its option, to either (i) issue a credit in the amount of the purchaser's original purchase price for the product, less any installation costs or costs previously incurred by Henry for replacement of the product under this warranty, or (ii) replace the defective product, or portion of any product which portion determined to be defective, as the case may be. In order to make a valid claim under this warranty, (i) the product claimed to be defective must be returned to Henry, (ii) a written claim, including a reasonable, detailed description of the defect, must accompany the product being returned, (iii) the written claim and returned products must be received by Henry no later than fourteen (14) days after the expiration of the applicable warranty period, and (iv) Henry must determine, in its sole discretion, that the product was defective under the terms of this warranty and that such defect is not the result of misuse, neglect, accident, modification, alteration or misapplication which would cause this warranty to not apply. **THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

7. INTELLECTUAL PROPERTY

Henry retains its intellectual property in all the products it sells. The sale of any products hereunder does not convey any license by implication, estoppel or otherwise. Henry retains the copyright in all documents, catalogs and plans supplied to Buyer pursuant to or ancillary to any purchase or contract. Unless otherwise agreed in writing, Buyer shall obtain no interest in any Henry product.

8. LIMITATION ON LIABILITY & REMEDIES OF BUYER

UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN, WILL HENRY, ITS SUBSIDIARIES, AFFILIATES OR THEIR RESPECTIVE SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, BUSINESS, REVENUES OR SAVINGS, EVEN IF BUYER ADVISES OF THE POSSIBILITIES OF SUCH DAMAGES OR IF SUCH DAMAGES ARE OTHERWISE FORESEEABLE, IN EACH CASE, WHETHER A CLAIM FOR ANY SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) ANY CLAIMS, DEMANDS OR ACTIONS AGAINST BUYER BY ANY THIRD PARTY; OR (C) ANY UNAVAILABILITY OF THE PRODUCT FOR USE. IN THE EVENT OF ANY LIABILITY INCURRED BY HENRY, ITS SUBSIDIARIES, OR AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER, BUYER AND HENRY AGREE THAT IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX THE EXACT AMOUNT OF SUCH DAMAGES AND THEREFORE WISH TO ESTABLISH A REASONABLE ESTIMATE THEREOF. THEREFORE, IN SUCH EVENT, THE DAMAGES SHALL NOT EXCEED THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY BUYER FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM; OR (B) \$50,000.00.

9. MISCELLANEOUS

a. Force Majeure

Henry shall not be liable for any damage or penalty for delay in delivery or for failure to give notice of delay when such delay is due to the elements, acts of god, acts of the Buyer, act of civil or military authority, war, riots, concerted labor action, shortages of materials, or any other causes beyond the reasonable control of Henry. The anticipated delivery date shall be deemed extended for a period of time equal to the time lost due to any delay excusable under this provision.

b. Assignment

Buyer may not assign, delegate or otherwise transfer all or any part of its rights or obligations under the Terms, without prior written consent of Henry. Any such attempted assignment, delegation, or transfer will be null and void. Henry shall be entitled at all times to assign its rights under the Terms (in whole or in part) or to subcontract any part of the work to be provided hereunder as it deems necessary or desirable.

c. Governing Law

THESE TERMS AND ANY SALE OF PRODUCTS HEREUNDER WILL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAWS RULES. ANY LITIGATION WILL BE BROUGHT EXCLUSIVELY IN LOS ANGELES COUNTY, CALIFORNIA, AND BUYER CONSENTS TO THE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED THEREIN, SUBMITS TO THE JURISDICTION THEREOF AND WAIVES THE RIGHT TO CHALLENGE VENUE. BUYER FURTHER CONSENTS TO THE EXERCISE OF PERSONAL JURISDICTION BY ANY SUCH COURT WITH RESPECT TO ANY SUCH PROCEEDING. Except in the case of nonpayment, neither party may institute any action in any form arising out of these Terms after the earlier of (i) the expiration of one (1) year following the date of sale of the product, or (ii) the expiration of the statute of limitations applicable to such action. Henry's rights and remedies under the Terms are cumulative, are in addition to, and do not limit or prejudice any other right or remedy available at law or in equity.

d. Bankruptcy

If either party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, the other party may cancel any unfulfilled obligations.

e. Survival

Any provisions in these Terms which by their nature extend beyond the termination or expiration of any sale of products will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns.

f. Notices

All notices and other communications hereunder shall be in writing, and shall be addressed to Buyer or to an authorized Henry representative, and shall be considered given when (a) delivered personally, (b) sent by confirmed facsimile, (c) sent by commercial overnight courier, or (d) three (3) days after having been sent, postage prepaid, by first class or certified mail.

g. Entire Agreement; Severability

The Terms, along with any credit application, terms and conditions, and/or guaranty entered into by Henry and Buyer, represent the entire agreement between Henry and Buyer regarding Buyer's purchase of products, and supersedes and replaces any previous communications, representations, or agreements, or Buyer's additional or inconsistent terms, whether oral or written. In the event any provision of these Terms is held invalid or unenforceable the remainder of the Terms will remain enforceable and unaffected thereby.

h. Waiver

Failure by Henry to exercise or delay in exercising any of its rights hereunder shall not be deemed to be a waiver or forfeiture of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

i. No Joint Venture

Nothing contained in these Terms shall be construed as creating a joint venture, partnership or employment relationship between the parties, nor will either party have the right, power or authority to create any obligation or duty, express or implied, on behalf of the other.

j. Conflicting Provisions

Should any provision of these Terms conflict with the labels on any products sold or any terms or postings published on www.henry.com, these Terms shall control.