

## STANDARD TERMS AND CONDITIONS OF SALE

PLEASE READ THIS DOCUMENT CAREFULLY. IT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, INCLUDING LIMITATIONS AND EXCLUSIONS THAT MIGHT APPLY TO YOU.

These terms and conditions apply to the purchase and sale of products through [www.charleston-inc.com](http://www.charleston-inc.com) (referred to as the "site"), which may also be accessed through a link at [www.charleston-inc.com](http://www.charleston-inc.com), the general website of Charleston, Inc., a Nebraska corporation (referred to as the "Supplier"). By placing an order for such products through this site (the "Order"), Buyer agrees to be bound by and accepts these terms and conditions. If Buyer does not agree to these terms and conditions, Buyer should not obtain products from this site. These terms and conditions are subject to change by the Supplier without prior written notice at any time, in Supplier's sole discretion. The latest version of the terms and conditions will be posted on this site, and Buyer should review these terms and conditions prior to purchasing any product that is available through this site. These terms and conditions are an integral part of the Terms of Use that apply generally to the use of this site.

These terms and conditions of sale ("Agreement") are applicable to any order placed with and accepted by Supplier.

1. **SCOPE OF AGREEMENT.** Supplier, upon acceptance of an Order placed by Buyer, will supply the products specified in the Order (the "Merchandise") to Buyer, pursuant to the terms and conditions of this Agreement and its exhibits, and Supplier's acceptance of such order submitted by Buyer is expressly limited to the terms and conditions of this Agreement notwithstanding any contrary provision contained in Buyer's purchase orders, invoices, acknowledgements or other documents. The details of the Merchandise (e.g., quantity, price, and product specifications) shall be set forth in the relevant Order.

2. **ORDER ACCEPTANCE AND CANCELLATION.** Buyer's receipt of an electronic or other form of order confirmation does not signify Supplier's acceptance of Buyer's Order, nor does it constitute confirmation of Supplier's offer to sell. Supplier reserves the right at any time after receipt of Buyer's Order to accept, decline, or limit Buyer's Order for any reason, whether or not Buyer's credit card has been charged. If Buyer's credit card has been charged and the Merchandise is canceled, Buyer will receive a prompt refund credit to Buyer's account. Supplier reserves the right at any time after receipt of Buyer's order, without prior notice to Buyer, to supply less than the quantity Buyer ordered of any item. Once the Order has been placed, it cannot be canceled unless the shipment is unavoidably delayed. In this case, Supplier will do its best to cancel the Order if requested. Supplier is a reseller to end user customers and does not accept Orders from dealers, exporters, wholesalers, or other customers who intend to resell the products which are offered on the site. Supplier will make every reasonable effort to maintain the availability of the site. However, should Supplier experience technical difficulties, Supplier is not responsible for orders that are not processed or accepted.

3. **PRICE AND TERMS.** Terms of payment are within Supplier's sole discretion and, unless otherwise agreed by Supplier in writing, payment must be received prior to Supplier's acceptance of an Order. (a) The prices payable by Buyer for Merchandise to be supplied by Supplier under this Agreement will be

specified in the applicable Order. Unless otherwise expressly stated in an Order, all prices exclude shipping and taxes. (b) Unless Buyer is subject to the Terms of the Credit Application (the "Credit Agreement") payment terms are Payment in advance made by cash, check, ACH, or credit card. (c) If Buyer is currently subject to the terms of the Credit Agreement, the terms of the Credit Agreement control any purchase made by Buyer on credit. Supplier shall retain a security interest in the Merchandise and all proceeds thereof until the full purchase price therefore (including taxes and additional charges) has been paid. (d) Supplier reserves the right to (1) withhold shipment of the Merchandise until full payment is made: and/or (2) revoke any credit extended to Buyer. In the event that Buyer's account is more than thirty (30) days in arrears, Buyer shall reimburse Supplier for the reasonable costs, including attorney's fees, of collecting such amounts from Buyer. In the event of any dispute regarding an invoice, no finance charges will apply in the event that Buyer provides written notice of the dispute prior to the due date for such payment. (e) Buyer shall provide notice within five (5) business days of the occurrence of any event which materially affects Buyer's ability to perform its obligations under this Agreement including but not limited to: (i) the material default of any supplier or sub-contractor; (ii) labor strike or dispute; or (iii) material uncured default with respect to any debt obligations of Buyer. (f) Pricing schedules (whether attached to this Agreement or an Order) are subject to change upon a change in the price of applicable raw materials (as reflected on a recognized trade or commodity pricing tracker) in excess of five percent (5%) from the date of such schedule. (g) Buyer shall be responsible for all applicable sales taxes imposed on the Merchandise. Supplier shall collect from Buyer applicable Nebraska, Iowa and Kansas sales taxes. Buyer shall be responsible for any and all sales and/or use taxes applicable for sales occurring in states other than Nebraska, Iowa or Kansas. (h) All payments must be in United States dollars. Buyer's current billing address, phone information, and e-mail address must be included with every order. (i) Unless otherwise specified in the Order, the Merchandise will be delivered FOB Supplier's address and will be shipped to Buyer via carriers selected by Supplier. Additional shipping and handling charges may apply.

4. **CHANGES IN PRODUCTS AND PRICING.** Supplier constantly updates and revises its offerings of products, and Supplier may discontinue products at any time without notice. To the extent that Supplier provides information on availability of products, Buyer should not rely on such information, and Supplier will not be liable for any lack of availability of products that Buyer may order through the site. All pricing for the products available on the site is subject to change. For all prices and products, Supplier reserves the right to make adjustments due to changing market conditions, product discontinuation, manufacturer price changes, errors in advertisements and other extenuating circumstances.

5. **INTELLECTUAL PROPERTY.** Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Buyer as of the date of the Order or made or conceived by employees of Buyer during the Term of the Order shall be and remain the sole and exclusive property of Buyer provided that Buyer grants to Supplier a license to use, display and distribute (and to sub-license its affiliates and subcontractors to use, display and distribute) any intellectual property rights delivered to Supplier as reasonably necessary to perform any Order. Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names,

commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Supplier as of the date of the Order or made or conceived by employees, consultants, representatives or agents of Supplier during the term of this Agreement shall be and remain the sole and exclusive property of Supplier.

6. **ADVERTISING DISCLAIMER AND TRADEMARKS.** The descriptions of products that are posted on the site are the representations of Supplier's suppliers. Supplier is not responsible for the accuracy of such descriptions, nor is Supplier responsible for typographical, pricing, product information, advertising or shipping errors. In the event a product or service is listed at an incorrect price or with incorrect information due to typographical error or error in pricing or product information received from Supplier's suppliers, Supplier shall have the right to refuse or cancel any orders placed for products listed at the incorrect price. Supplier shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and Buyer's credit card charged. If Buyer's credit card has already been charged for the purchase and the Order is canceled, Supplier will immediately issue a credit to Buyer's credit card account in the amount of the charge. All trademarks, registered trademarks, photographs, and images relating to products available through the site are the sole property of their respective owners. Photographs are courtesy of the respective manufacturers or the Supplier.

7. **INDEMNIFICATION.** Buyer, as Indemnitor, shall indemnify, defend, and hold Supplier, its officers, directors, employees, agents, subsidiaries and/or affiliates, as Indemnitee, harmless for any failure by Buyer to pay any applicable sales and/or use taxes imposed upon the sale of the Merchandise and for any claim for damages caused by the Buyer's misuse of the Merchandise. Buyer shall not be responsible for indemnifying Supplier where the basis of the indemnity claim arises out of Supplier's own negligence or willful misconduct. In order to avail itself of this indemnity provision, Indemnitee shall promptly provide notice to Indemnitor of any such claim, tender the defense of the claim to Indemnitor, and cooperate with Indemnitor in the defense of the claim. Indemnitor shall not be liable for any cost, expense, or compromise incurred or made by Indemnitee in any legal action without the Indemnitor's prior written consent.

8. **BREACH.** In addition to all other rights to which a party is entitled under this Agreement, if either party breaches any term of the Order or the Agreement, the non-breaching party shall have the right to: (a) terminate the Order immediately upon written notice to the other party; and (b) seek to obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement. Failure to properly demand compliance or performance of any term of the Order or this Agreement shall not constitute a waiver of Supplier's rights hereunder and prior to any claim for damages being made for non-conformance or breach. Buyer shall provide Supplier with reasonable notice of any alleged deficiencies in the Merchandise or performance under the Order or this Agreement and Supplier shall have a reasonable opportunity to cure any such alleged non-conformance or breach.

9. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.** THIS SITE AND ALL INFORMATION, CONTENT, MATERIALS, AND PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE ARE PROVIDED BY SUPPLIER, OR ITS AFFILIATES ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. SUPPLIER AND ITS AFFILIATES MAKE NO

REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, AS TO THE OPERATION OF THIS SITE OR THE INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE, UNLESS OTHERWISE SPECIFIED IN WRITING. BUYER EXPRESSLY AGREES THAT BUYER'S USE OF THIS SITE IS AT BUYER'S SOLE RISK. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, SUPPLIER AND ITS AFFILIATES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SUPPLIER AND ITS AFFILIATES DO NOT WARRANT THAT THIS SITE, INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE; THEIR SERVERS; OR EMAIL SENT FROM SUPPLIER ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. SUPPLIER AND ITS AFFILIATES WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS SITE OR FROM ANY INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING. IN NO EVENT SHALL EITHER PARTY BE LIABLE HEREUNDER FOR INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY FOR SUCH DAMAGES AND SUPPLIER'S TOTAL LIABILITY FOR DAMAGES UNDER THIS AGREEMENT AND THE ORDER SHALL BE LIMITED TO THE TOTAL FEES DUE HEREUNDER FOR THE INVOICE UPON WHICH A CLAIM IS BASED. SUPPLIER'S SOLE AND ENTIRE MAXIMUM LIABILITY (AND THE LIABILITY OF ANY OF THE PROVIDERS OF PRODUCTS AVAILABLE ON THE SITE), FOR ANY REASON, AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY BUYER FOR THE PRODUCTS BUYER HAS ORDERED THROUGH THIS SITE.

10. **WARRANTY AND RETURN POLICY.** Most of the products available through the site are covered under the manufacturer's warranty, which is detailed in the product's description or at the manufacturer's official website. If applicable, manufacturer's warranties apply from the date of shipment. Buyer understands that Supplier does not operate or control the products offered by the manufacturers participating on the site, and Buyer agrees that under no circumstances will Supplier be liable for any damages arising out of the failure of any manufacturer to fulfill its obligations to Buyer under any warranty, repair, customer support or similar policies covering products that Buyer may purchase through the site. While Supplier does not offer any warranties with respect to the products available through the site, Supplier is committed to working with Buyer to ensure that every product under warranty performs to the manufacturer's specifications. Supplier offers a limited return policy on all items sold on its site. To return products, Buyer must obtain prior authorization to return Merchandise within thirty (30) days of receipt of the product by Buyer. To obtain the authorization to return Merchandise, Buyer must call Supplier at 402-721-2000 extension RETURNS, or e-mail Supplier's Returns Department at **[YOUR RETURN EMAIL ADDRESS]** within thirty (30) days of Buyer's receipt of the Merchandise. Upon receiving timely authorization to return the Merchandise, Buyer must deliver the Merchandise to Supplier within ten (10) days after receipt of the authorization to return the product. NO returns of any type will be accepted unless Buyer has obtained prior authorization to return the Merchandise within thirty (30) days from receipt of the product, and Buyer has delivered the Merchandise to Supplier within ten (10) days following the receipt of the authorization to return the

Merchandise to Supplier. For faster service, please have the following information on hand when requesting authorization to return a product: customer name, invoice or order number, SKU number, and the reason for returning the Merchandise. Buyer is responsible for a 25% restocking fee on returns of non-stock and specialty order items. To expedite the processing of Buyer's refund or credit, Supplier asks that Merchandise be returned not later than ten (10) days following the date that Supplier grants the authorization to return the Merchandise. All returned Merchandise MUST be 100% complete, contain ALL original boxes and packing materials, have original UPC codes on the manufacturer boxes, and contain all manuals, blank warranty and registration cards, and other accessories and documentation provided by the manufacturer. Buyer is responsible for shipping and freight charges on returned items; Supplier will match Buyer's shipping method on Buyer's replacement or exchange item(s). Buyer must insure the shipment or accept the risk of loss or damage during shipment. Supplier strongly recommends that Buyer fully insure Buyer's return shipment against loss or damage and that Buyer use a carrier that can provide Buyer with proof of delivery for Buyer's protection. If the Merchandise arrives in a damaged condition from shipping, save the Merchandise AND the original box and packaging in which it arrived, and notify Supplier immediately to arrange for a carrier inspection and a pick-up of the damaged Merchandise. If the Buyer receives DEFECTIVE Merchandise, the defective Merchandise may be returned to Supplier only if (i) Buyer receives authorization from Supplier to return the defective Merchandise within thirty (30) days of receipt, and (ii) Buyer delivers the defective Merchandise to Supplier within ten (10) days after obtaining authorization from Supplier to return the Merchandise. Thereafter, Supplier will return the defective Merchandise to the manufacturer where it will be inspected and tested by the manufacturer to determine if the Merchandise is in fact defective. If the manufacturer determines that the Merchandise is defective, then Buyer may be entitled to a credit, replacement, exchange or repair of the Merchandise in accordance with the warranties and policies of the manufacturer applicable to such Merchandise. If the Buyer fails to timely return the defective Merchandise to Supplier, then Buyer must contact the manufacturer directly or the manufacturer's appropriate warranty service provider for instructions regarding the return of such item. Some manufacturers do not accept returns of certain items for exchange, replacement or credit FOR ANY REASON, and Buyer should check the information provided with the description of the particular product. Questions regarding manufacturer's warranties and return policies of Supplier should be addressed via e-mail to [returns@charleston-inc.com](mailto:returns@charleston-inc.com), by phone at 402-721-2000, or by regular mail to Charleston, Inc., Attention Returns, 2639 W 23<sup>rd</sup> Drive, Fremont, NE 68025. These policies set forth Buyer's sole and exclusive rights with respect to return of products that Buyer may purchase through this site.

11. **NOTICE.** Any notice sent pursuant to the Order or this Agreement shall be sent by certified mail, return receipt requested; or by overnight mail to the addresses on the Order or to such address as either party may in the future designate.

12. **ASSIGNMENT.** Except as otherwise provided, the Order and this Agreement shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.

13. **STATUS.** Buyer and Supplier are separate entities. Nothing in the Order or this Agreement shall be construed as creating an employer-employee or joint venture relationship.

14. **COMPLIANCE WITH LAW**. Supplier shall comply with all state, federal and local laws and regulations applicable to its performance hereunder.

15. **GOVERNING LAW**. The Order and this Agreement shall be governed by the laws of the State of Nebraska, without reference to conflicts of law principles. Any legal suit, action or proceeding arising out of or relating to the Order or this Agreement shall be commenced in a federal court in Nebraska or in state court in the County of Dodge, Nebraska, and the appellate courts thereof, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. With respect to any litigation arising out of the Order or this Agreement, the parties expressly waive any right they may have to a jury trial and agree that any such litigation shall be tried by a judge without a jury and the prevailing party shall be entitled to recover its expenses, including reasonable attorney's fees, from the other party.

16. **FORCE MAJEURE**. Neither party shall be liable for any failure to perform or delay in performance of this Agreement to the extent that any such failure arises from acts of God, war, civil insurrection or disruption, riots, government act or regulation, strikes, lockouts, labor disruption, cyber or hostile network attacks, inability to obtain raw or finished materials, inability to secure transport, or any cause beyond such party's commercially reasonable control.

17. **SEVERABILITY**. In the event any provision of the Order or this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of the Order or this Agreement will remain in full force and effect. All sections herein relating to payment, Ownership, confidentiality, indemnification and duties of defense, representations and warranties, waiver, waiver of jury trial and provisions which by their terms extend beyond the Term shall survive the termination of the Order and this Agreement.

18. **ENTIRE AGREEMENT**. The Order, this Agreement and the operative provisions of any quotation issued by Supplier and any purchase order issued by Buyer, sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of every and any nature among them. No proposal, purchase order, order confirmation, acceptance, or any other document provided by either Party to the other, nor any electronic click-wrap, terms of use or similar online consent or acceptance language accompanying or set forth as a prerequisite to any electronic interface or utility associated with any Merchandise, shall be deemed to amend the terms hereof and any such contradictory or additional terms shall be ineffective. No party shall be bound by any condition, definition, warranty, or representations, other than as expressly set forth or provided for in the Order or this Agreement, or as may be, on or subsequent to the date hereof set forth in writing and signed by the party to be bound thereby. In the event of any ambiguity or conflict between any of the terms and conditions contained in this Agreement and the terms and conditions contained in an Order, the terms and conditions of this Agreement shall control, unless the Parties have expressly provided in such Order that a specific provision in this Agreement is amended, in which case this Agreement shall be so amended, but only with respect to such Order. The Order or this Agreement may not be amended, supplemented, changed, or modified, except by agreement in writing signed by the parties to be bound thereby.