

STRONGWELL

TERMS AND CONDITIONS OF SALE

1. Applicability of Terms & Conditions: These Terms & Conditions of Sale (“Terms”) will govern all sales of products (“Goods”) to a customer (“Buyer”) by Strongwell Inc. and its subsidiaries (collectively “Seller”). The Terms contained herein shall supersede all other terms, understandings, and conditions inconsistent herewith. Any additional or inconsistent terms, understandings, and conditions contained in any written or oral representations are objected to by Seller and will not be effective or binding as to Seller.
2. Credit: All orders shall be subject to credit approval at Seller’s main office.
3. Taxes: Prices do not include Federal, State, or Local sales, use, excise or any other taxes, duties, or fees. If Seller should be required to pay such taxes, invoices will be increased accordingly. Buyer agrees to defend, indemnify, and hold Seller harmless from and against any and all such taxes, duties and fees, including without limitations, any cost, expense, attorney’s fees, interest or penalties assessed against or incurred by Seller as a result of or in any way related to Buyer’s failure to pay any such taxes, duties or fees.
4. Waiver: Waiver by either party of any default by the other shall not be deemed to waive any subsequent default.
5. F.O.B. Point: Quotations and sales are F.O.B. point of shipment unless otherwise expressly stipulated.
6. Terms and Security Interest:

Terms of payment are net cash thirty (30) days after shipment unless Seller has demanded payment prior to shipment. Interest at the rate of 1-1/2% per month will be charged on past due accounts commencing after the last day of the first calendar month following the date of invoice. Seller may suspend credit, refuse shipment, or cancel unfilled orders whenever Seller believes Buyer’s credit is impaired or if Buyer fails to comply with these payment terms. Seller retains a security interest in all Goods and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. Any repossession and removal of Goods shall be without prejudice to any of Seller’s other remedies at law or in equity.

THIS DOCUMENT IS A SECURITY AGREEMENT AND GIVES SELLER ALL THE RIGHTS OF A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE. Therefore, Buyer agrees, without further consideration, at any time to do or cause to be done, executed and delivered, all such further acts and instruments as Seller’s may reasonably request in order to perfect Seller’s security interest.

7. Shipments: Seller's shipping dates are approximate and based on receipt of orders with complete information and authority to proceed with manufacture.
8. Contingencies: Seller shall not be responsible for any loss, delay or damage caused, either directly or indirectly, by fire, flood, wars, strikes, lockouts, government acts or requirements, embargoes, insurrection, riot, accidents to, or breakdowns or mechanical failure of Seller's plant machinery or equipment, delays by any supplier, delays in transportation or lack of transportation facilities or any other cause of causes beyond its control. SELLER SHALL NOT BE LIABLE FOR ANY LOSS, COST, PENALTY OR ANY CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES OF ANY KIND OCCASIONED BY OR ARISING OR RESULTING FROM ANY DEFAULT OR DELAY IN DELIVERY CAUSED BY ANY EVENT BEYOND SELLER'S REASONABLE CONTROL, WHETHER OR NOT SAID LOSS, COST, PENALTY OR DAMAGE WAS REASONABLY FORESEEABLE.
9. Cancellation: Buyer may not terminate, reduce, suspend, or cancel any order for Goods after Buyer's purchase order is placed with Seller, unless Seller provides Buyer with explicit written consent to such termination, reduction, suspension or cancellation. Seller may withhold such written consent in its sole discretion. If Seller consents in writing to Buyer's request for termination, reduction, suspension or cancellation, Buyer's request shall be subject to payment of charges based upon the status of work completed. Seller reserves the right to apply a minimum charge of 25% of the purchase price of the unshipped portion of the order.
10. Warranty: Goods furnished are guaranteed to be free from all latent defects in material and workmanship under normal use and service for a period of one (1) year from the date of shipment. However, Seller will not be obligated beyond the repair or replacement, at Seller's sole discretion, of such Goods proven to be defective. Whether the Goods are manufactured by Seller or by another, such repair or replacement shall be Buyer's exclusive remedy and Seller shall not be subject to any other or further liability and no claim for consequential or incidental damages will be allowed.

NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THE GOODS. THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION OF THE PURCHASE ORDER OR ANY OTHER DOCUMENT RELATING TO THE SALE OF GOODS FROM SELLER TO BUYER.

The limited warranty provided is void if (i) the Goods are subject to misuse, abuse, modification or alteration or if the Goods are not used in accordance with Seller's specifications, instructions and recommended procedures, (ii) the Goods are not stored or handled appropriately, (iii) the defect in the Goods resulted from damages occurring after delivery of the Goods, or (iv) the defect in the Goods has not been reported to Seller in

writing within thirty (30) days after the date on which the defect was or should have been discovered by Buyer. A Return Material Authorization (RMA) will be issued by Seller for products deemed defective and unusable. Buyer may not ship defective products to Seller without receiving an RMA from Seller.

11. Manufacturing Variations: All Goods, including without limitation those produced to meet an exact specification, shall be subject to normal manufacturing tolerances and variations of Seller and its raw materials suppliers as recognized in the reinforced plastics industry. Seller reserves the right to change raw materials specifications and/or raw materials at any time and assumes no obligation to continue to supply any product, or products, previously sold.
12. Employment Laws: Seller certifies that Goods of its manufacture covered hereby are produced in compliance with all applicable requirements of Section 6, 7 and 12 of the Fair Labor Standards Act, as amended, and of the regulations and orders of the United States Department of Labor issued under Section 14, and with all Fair Employment Practices Laws.
13. Successors and Assigns: These Terms shall be binding upon and inure to the benefit of the parties, their successors and assigns, provided that Buyer may not assign the contract without Seller's prior written consent, which Seller may withhold in its sole discretion.
14. Ownership of Tooling: Tooling consists of (1) a die and (2) an in-feed system to the die which includes, but is not limited to, preformers, resin pans, guide plates and creels. Buyer may acquire ownership rights to the die except as provided in this Paragraph 14 by purchasing ownership rights. Buyer may not and does not under any circumstances acquire ownership of any part of the in-feed system. Further, the proprietary and confidential intellectual property rights of the die and in-feed system are the property of Seller and Buyer acquires no intellectual or proprietary property rights in the die or the in-feed system. Seller will use Buyer's die exclusively for Buyer unless otherwise authorized by Buyer in writing. Buyer has the right to obtain possession of the die by requesting the die from Seller. If the die remains in Seller's possession and is inactive for a period of eighteen (18) months following the most recent order from Buyer, then Seller obtains all ownership rights in the die and may use it in Seller's sole discretion for any purpose or dispose of it in any manner it sees fit without notice to Buyer.
15. Quality: In the event samples of Goods are submitted to Buyer, future production will be based on the sample standards, recognizing that some modifications may occur through normal tool wear due to production.
16. Prices: Prices for undelivered portions of continuing orders are subject to change whenever Seller's costs are affected by Federal or State legislation, changes in costs of raw materials, and/or labor rates, together with applicable overhead for such costs.

17. Quantity: Seller reserves the right to deliver Goods in quantities not to exceed 10% more or less than the quantity specified by Buyer. In the event of such variance, appropriate adjustments shall be made in the purchase price at prevailing prices.
18. Packaging: Seller shall provide adequate packaging for all Goods shipped in accordance with recognized industry practice. All special packaging requirements of Buyer shall be to Buyer's account.
19. Goods Returned: Goods may not be returned without Strongwell's written permission unless otherwise agreed upon. Stock items, when returned, will be credited at the lowest prevailing price, and subject to a minimum charge of 10% for handling and restocking. Return transportation charges must be prepaid. Non-standard or special items are not subject to cancellation, change, reduction in amount, nor return for credit without written consent and upon terms that indemnify Seller fully against loss. Only merchandise in resalable condition will be accepted.
20. Notice of Defect: Buyer shall notify Seller of any defect, error or shortage in Goods received by Buyer, in writing, within thirty (30) calendar days after delivery and such written notice must state the applicable order number or other information identifying the specific Goods at issue and must be accompanied by documents that substantiate the alleged defect, error, or shortage. If Buyer fails to provide Seller with such written notice within the required time, Buyer will be deemed to have waived such defect, error or shortage and to have accepted the Goods delivered.
21. Indemnification: Buyer agrees to defend, indemnify and hold Seller and its members, managers, employees, affiliates and agents harmless from and against any and all loss, cost, damage, liability, penalty, and expense (including, without limitation, any penalties or punitive damages, attorney's fees and expenses and costs of suit) (collectively "Expenses") arising out of, resulting from, or in any way connected to the manufacture, sale, or use of such Goods, including without limitation, any Expenses resulting from (1) infringement of patents, copyrights or trademarks which may arise from compliance with Buyer's designs, specifications or instructions; (2) any damage to property, personal injury, or death, or (3) any breach by Buyer of any of these Terms or terms in any purchase order or document related to the sale of Goods from Seller to Buyer. This indemnification obligation, however, shall not apply if the liability incurred by the Seller arose solely as a result of breach by Seller of its limited warranty under Paragraph 10 above.
22. Intellectual Property: Buyer agrees that it does not have any property interest in Seller's intellectual property, including, but not limited to, its trademarks, trade names, copyrights, trade secrets, patents, know how or other proprietary rights of any nature whatsoever, whether or not incorporated in the Goods covered by these Terms, and Buyer will not attempt to reverse engineer or any such Goods or disclose or use any such intellectual property without Seller's prior written consent.

23. Relationship: An offer to sell or acceptance of order by Seller constitutes the only relationship of Buyer and Seller and no other relationship, such as agent, distributor or broker is expressed or implied.
24. Notices: Any notice to Seller or Buyer required or permitted hereunder shall be sent by registered or certified mail with return receipt requested, postage prepaid, by a nationally recognized delivery service, to Seller at 400 Commonwealth Avenue, Bristol, VA 24201, and to Buyer at Buyer's last address on file with Seller.
25. Governing Law; Severability: The validity, construction, and performance of the Terms herein and any other documents related to the sale of Goods from Seller to Buyer shall be governed by the laws of the Commonwealth of Virginia without regard to conflicts of laws principles. Each provision hereof shall be severable, and in the event any provision hereof is held to be contrary to law, invalid, or unenforceable, the remaining provisions shall not be affected thereby, but shall remain in full force and effect.
26. Jurisdiction and Venue: Buyer irrevocably submits and agrees to the jurisdiction of the circuit courts of the City of Bristol, Virginia or the United States District Court, Western District of Virginia, Abingdon Division in any action, suit or proceeding related to, or in connection with, the Goods, purchase orders, and Terms herein and, to the extent permitted by applicable law, Buyer hereby expressly waives and agrees not to assert as a defense in any such action, suit or proceeding any claim (i) that Buyer is not personally subject to the jurisdiction of either of these courts; (ii) that the venue of the action, suit or proceeding is improper, (iii) that the action, suit or proceeding is brought in an inconvenient forum; or (iv) that the subject matter of the sale of Goods or Terms herein may not be enforced in or by either of these courts. Without prejudice to any other mode of service, Buyer consents to service of process relating to any such proceedings by personal delivery or prepaid mailing (air mail if international) in registered or certified form a copy of the process to the Buyer at last known address on file with Seller or, if none, then to the address at which the Goods were delivered.
27. Miscellaneous:
- (a). Buyer may not assign its rights or obligations hereunder except with Seller's prior written consent, which Seller may withhold in its sole discretion. These Terms shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
 - (b). Buyer acknowledges that it has read these Terms and has had the opportunity to clarify these Terms with Seller. Buyer agrees that the provisions of these Terms may not be construed in favor of or against either party by reason of the extent to which a party or its professional advisors participated in the preparation of the Terms herein.
 - (c). The paragraph headings herein are solely for the convenience of and reference by the parties and do not constitute any part of these Terms.
28. Survival: Sections 6,10,14,20,21,22,25, and 26 of these Terms survive the expiration or cancellation of any purchase order or sale of Goods.