

GENERAL TERMS AND CONDITIONS

- 1. CONTRARY TERMS, ENTIRE AGREEMENT.** Bootz' acceptance of Buyer's Order is expressly made conditional on assent by Buyer to any terms additional to or different from those proposed by Buyer in Buyer's purchase order or other writing. This writing constitutes the final expression of the parties' agreement, and it is a complete and exclusive statement of the terms of that agreement.
- 2. FREIGHT AND SHIPPING.** Unless otherwise specified, all shipments are F.O.B. Bootz' plant, freight prepaid and allowed. Drop-offs arranged at Buyer's expense when permitted by carrier. A \$50.00 minimum drop charge will be issued on the invoice for any order less than 720 load units. Drop charges differ according to territory and delivering carrier. Pool truck loads arranged on orders on one-half of truck capacity provided total orders from area fill truck. Buyer is responsible for detention charges when equipment is not unloaded within time set by carrier. All back orders will be cancelled. LTL shipments are available at Bootz' discretion but not recommended. All LTL are the sole responsibility of Buyer. Any claims should be filed with the freight carrier and not Bootz, a 15% upcharge for special handling along with any costs associated with palletization will be added to the invoice for LTL shipments. All LTL freight charges will be paid by Buyer. Any claims for loss or damage in transit should be made promptly by Buyer against the carrier. No claims for shortages or variances from orders will be considered unless Buyer immediately informs Bootz of same.
- 3. PRICES.** Prices are subject to change without notice. Any Buyer using prices on bid jobs and desiring protection against price rise should notify Bootz in writing at the time the quotation is given as to the number of units and title of the job, the approximate completion date, and Bootz' stock number of the pieces desired. Bootz reserves the right on any quotation to escalate prices to the extent that costs are increased. Field agents of Bootz shall not bind Bootz as to price or delivery, or quote future pricing or availability of any goods, and instead Bootz shall only be bound by written quotations issued by Bootz.
- 4. ACCEPTANCE AND FULFILLMENT OF ORDERS.** All orders are subject to acceptance by Bootz. The acceptance, fulfillment and delivery of orders and agreements by Bootz are contingent upon and subject to accidents, breakdowns, strikes, sabotage, riots, insurrection, war, delays, interruptions in or failure of sources to supply materials and equipment, labor and transportation, acts of God, or other causes and conditions, whether of like or different nature, affecting Bootz, and to orders, contracts, priorities, directives, requisitions or requests of the federal or state governments, whether or not voluntarily assumed.
- 5. PAYMENT.** Unless otherwise specified, payment terms are 2% 10th Prox., Net 30 days. Buyer agrees to pay the maximum interest allowable under state law on any late payments. Bootz reserves the right to suspend credit at any time when, in its judgment, Buyer's financial condition warrants such action.
- 6. TAXES AND FEES.** Prices stated herein do not include any manufacturers, sales, use or other excise taxes, charges or duties, and the amount of any thereof which Bootz is required to pay or collect will not be invoiced to Buyer. Buyer shall pay all such taxes, charges and duties arising by reason of this order and all other taxes, charges and duties of whatever nature assessed upon the goods. Buyer shall also pay any collection fees and reasonable attorneys' fees incurred by Bootz in collecting payment of the purchase price and any other amounts for which Buyer is liable under the terms and conditions hereof.
- 7. EXPRESS LIMITED WARRANTY.** Bootz warrants that any goods supplied by it shall be free from defects in material and workmanship for one (1) year from the date of delivery. This EXPRESSED LIMITED WARRANTY does NOT apply where there has been failure of the goods due to improper use; breakage not due to defect; failure on account of faulty or improper installation or handling; or failure on account of installation in a building of faulty design or construction. Said EXPRESS LIMITED WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. This exclusion applies to original and replacement goods. Sales representatives of Bootz are not authorized to make warranties about the goods. Bootz' sales representatives' ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES, shall not be relied upon by Buyer, and are not part of the contract for sale.

If Buyer believes it has purchased defective goods as described above, Buyer must notify Bootz immediately in writing why Buyer believes the goods are defective. Bootz may then request the Buyer to return the allegedly defective goods (or a sample) to Bootz; have Bootz' representative inspect the goods at the job site, as installed, or at Bootz' address; and/or rely upon the information Buyer has provided to determine whether the goods are defective as described above. If any goods are proven to be defective as described above, then Bootz will, at Bootz' sole discretion, either repair or replace the defective goods or issue to Buyer a credit equal to the price of the defective goods charged by Bootz to Buyer. Said repair or replacement of defective goods

or issuance of credit shall constitute fulfillment of all liabilities of Bootz to Buyer with respect to, or arising out of, the goods, whether based on contract, negligence, strict tort or otherwise. Bootz reserves the right to change design, color, models and to discontinue the manufacture of any goods. THE PROVISIONS OF THE PARAGRAPH 7 ARE SUBJECT, WHERE APPLICABLE, TO THE PROVISION OF PARAGRAPH 8.

8. **DISCOUNT IN LIEU OF DEFECTIVE/DAMAGED GOODS.** Notwithstanding anything contained herein to the contrary, if Bootz had given Buyer a discount in lieu of defective/damaged goods (which, if given, will be indicated on the front side hereof), then in consideration for said discount, Buyer shall be responsible to handle, and absorb all costs associated with, all normal and incidental problems relating to the goods sold hereunder, including, but not limited to, defective or damaged goods, and as such Bootz shall have no responsibility or liability for the same.

9. **LIMITATION OF LIABILITY.** Bootz shall not under any circumstances be liable for incidental damages or for special or consequential damages. The remedies of Buyer set forth herein are exclusive, and the liability of Bootz with respect to any contract or anything done in connection therewith such as the performance or breach thereof, or from the manufacture, sale, delivery, resale, installation or use of any goods covered by or furnished under this agreement, whether arising out of contract, negligence, strict tort, or under any warranty or otherwise, shall not, except as expressly provided herein, exceed the price of the goods upon which such liability is based. This limitation of liability applies to original and replacement goods.

10. **RETURNED GOODS.** No goods may be returned without prior consent and written approval from Bootz. Transportation costs for returned goods must be paid by Buyer. Goods must be packed in such a manner to insure safe delivery to factory. No credit will be allowed for damage not attributable to Bootz. If Bootz approves returned goods, credit will be given, less charges for rehandling and all costs required to make the goods saleable, on the basis of the price in effect when goods are returned, original purchase price or current published price, whichever is lower.

11. **CONTROLLING LAW.** This transaction shall be governed by, and this agreement shall be construed and enforced in accordance with the laws of Indiana. If any provision, clause or part of the agreement or application of the agreement which can be given effect without the invalid or unconscionable provision or application, and to this end the provisions of this agreement are declared to be severable.