

Terms and Conditions of Sale

1. **Acceptance.** All claims for shortages or damage, or any rejection of the goods described on the front of this invoice (the "Goods") for non-conformity, must be made in writing within 5 days of receipt of the Goods. All Goods shipped at buyer's risk. No unauthorized returns. Minimum 15% handling charge on returned Goods.
2. **Prices.** Unless otherwise specified by Cimco, prices are exclusive of all sales, use and other taxes imposed by any federal, state, municipal or other authority. Any tax or other charge, which Cimco may be required to pay or collect in respect of the sale of the Goods, may be added to invoice as a separate charge to be paid by the Customer.
3. **Delivery and Risk.** Unless otherwise specified by Cimco, the Goods shall be sold f.o.b. Cimco's plant, and the following provisions shall apply: (a) all shipping charges shall be paid by the Customer; (b) in the absence of specific shipping instructions from the Customer which have been agreed to in writing by Cimco, delivery of the Goods to any carrier shall constitute delivery to the Customer; and (c) upon delivery of the Goods to the carrier, all risk of loss or damage to the Goods shall pass to the Customer. If Cimco has specified that it shall install the Goods, then Cimco shall assume responsibility for delivery of the Goods to the installation site and the risk of loss or damage to the Goods shall pass to the Customer on such delivery.
4. **Payment.** This invoice is now due and payable. A late charge of 1.5% per month on all overdue amounts will be assessed on all invoices not paid within 10 days from the date of invoice. In addition, Customer agrees to pay Cimco reasonable attorney's fees and all costs and expenses incurred in collecting amounts due to Cimco hereunder following default by the Customer.
5. **Title.** Title to the goods shall remain in Cimco, and the Goods shall remain personal property (notwithstanding that they may be installed or affixed to realty), until all amounts due hereunder have been paid in full. If the Customer fails to make any payment due hereunder, the unpaid balance of the price and all other charges hereunder shall, at the option of Cimco, become immediately due and payable. In such event, Cimco, and any agent which it may appoint, shall have the right to enter the premises where the Goods are located and take possession of the Goods and sell or otherwise dispose of the Goods as it may see fit, including by way of private sale. The Customer shall be responsible for deficiency remaining after any such sale and specifically waives the benefit of any applicable legislation restricting Cimco's right or remedies.
6. **Insurance.** At its own expense, the Customer shall maintain, with insurers of recognized responsibility, insurance against loss or damage to the Goods from the time at which the risk of loss or damage passes to the Customer until the price has been paid in full. Such insurance shall be on terms usual in the trade, in an amount not less than the price, and shall provide that losses are payable to Cimco as its interest may appear. The Customer will ensure that Cimco is provided with a certificate of such insurance forthwith upon request.
7. **Installation.** If Cimco has specified that it shall install the Goods, the following provisions shall apply: (a) Cimco shall have the right to subcontract all or any part of the installation work to others; (b) Cimco shall have the right to start installation immediately after delivery of the Goods to the installation site, and if the start of installation work is delayed beyond 30 days after such delivery, the full amount of the price and all charges hereunder, less any portion thereof separately specified as installation charges, shall at the option of Cimco become immediately due and payable; (c) unless requested by the Customer and agreed by Cimco, no Saturday, Sunday, holiday or other overtime labour will be provided in connection with installation work, and if provided, all premium wage costs incurred shall be added to the invoice as a separate charge to be paid by the Customer, and (d) "completion" of installation shall be deemed to occur when any of the following events takes place: (i) the Customer signs an acceptance certificate, (ii) Cimco has installed the Goods and successfully tested the installation, or (iii) the Customer commences regular use of the Goods.
8. **Delays.** Delivery and installation dates are estimates only. Cimco will use its commercially reasonable efforts to meet such dates, but shall not be responsible for any loss or damage resulting from any delay whatsoever regardless of cause.
9. **Changes.** Changes in the Goods may be requested by the Customer in writing, but shall be made only if agreed to in writing by Cimco. If any change results in an increase in the cost to Cimco of fulfilling its obligations hereunder, the price shall be increased accordingly on a basis determined by Cimco acting reasonably.
10. **Limited Warranty.** Subject to the limitations set out below, Cimco warrants to the Customer that all Goods of Cimco's manufacture will be free from defects in materials and workmanship for a period of one (1) year from (i) the date of shipment in the case of Goods not installed by Cimco and (ii) the date of completion (as defined in paragraph d of section 7) in the case of Goods installed by Cimco. Goods that are not of Cimco's manufacture will carry the warranty (if any) provided by the original supplier or manufacturer, and any warranty by Cimco in respect thereof is expressly excluded.

Cimco's obligation under this warranty in respect of Goods which it has not installed shall be limited to repairing or replacing such Goods, or any defective parts thereof, f.o.b. the original point of shipment, provided such Goods or defective parts are returned to Cimco and found by Cimco's inspection to be defective in materials or workmanship. In this connection, Cimco shall not be responsible for any costs of installation, removal or transportation.

Cimco's obligation under this warranty in respect of Goods that it has installed shall be limited to repairing or replacing such Goods, or any defective parts thereof, at the installation site. In this connection, Cimco shall be responsible for all of the costs that it incurs, except for charges for overtime labour, which shall be for the Customer's account.

This warranty shall apply only if Cimco receives written notice of the Customer's claim during the warranty period, and then only if the Customer has fully complied with the terms of payment. This warranty shall not apply to any Goods that, in the opinion of Cimco, have been subject to misuse, neglect, accident, alteration or improper installation by anyone other than Cimco. This warranty is extended only to the Customer and is not transferable.

There are no other conditions, warranties or representations, express or implied, statutory or otherwise, as to the character or quality of the Goods. In particular, there are no implied conditions or warranties as to merchantability or fitness of the Goods for any particular purpose.

Cimco shall not be liable in contract or otherwise for any loss, damage, expense or injury of any kind, arising out of or in connection with the installation, use or failure of the Goods, or any defect therein, even if caused by the negligence of Cimco, its employees, agents or representatives. In no event shall Cimco be liable for any direct, indirect, special or consequential damages of any kind whatsoever.
11. **General.** Unless otherwise specified by Cimco, the laws of the state of New York shall govern this agreement. If Cimco has specified that it shall install the Goods, the laws of the state or jurisdiction where installation takes place shall govern this agreement. Customer shall not assign neither this agreement nor any right or obligation arising hereunder. In the event that either party shall on any occasion fail to perform or fulfill any of the terms of this agreement and the other party shall not enforce that term, the failure to enforce on that occasion shall not prevent enforcement on any other occasion. Each of the provisions and parts thereof of this agreement are intended to operate independently of the others. It is the intention of the parties that in the event that a court or other competent tribunal determines that any provision or part hereof of this agreement is unenforceable for any reason, all other provisions and parts thereof shall remain valid and legally binding. The remedies provided to Cimco under this agreement shall be cumulative and in addition to all other remedies provided by law. The headings to the paragraphs of this agreement are provided for ease of reference only and shall not be construed to vary or limit the terms hereof. This agreement has been written in the English language in accordance with the wishes of both parties.