



Ettractions with written notice of its rejection of the delivery within fifteen (15) days of delivery, then the delivery will be deemed to have been accepted by Purchaser on the fifteenth (15th) day after delivery.

2. Title and Insurance. Unless otherwise provided in the attached order confirmation, title and risk of loss will pass to Purchaser when Ettractions delivers the Products to a common carrier. Purchaser shall obtain and maintain at its own cost and expense from a qualified insurance company standard liability and products liability insurance, written on an occurrence basis, naming Ettractions as an additional named insured.

3. Warranties. PURCHASER ACKNOWLEDGES THAT ETTRACTIONS IS NOT THE MANUFACTURER OF THE PRODUCTS. EXCEPT AS SPECIFICALLY STATED BELOW, THE PRODUCTS IS SOLD BY ETTRACTIONS TO PURCHASER "AS IS" AND ETTRACTIONS DOES NOT EXTEND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ONLY THOSE EXPRESS WARRANTIES PROVIDED DIRECTLY BY THE MANUFACTURER OF SUCH PRODUCTS ARE AVAILABLE TO PURCHASER, COPIES OF WHICH MAY BE OBTAINED FROM THE MANUFACTURER. ETTRACTIONS DOES NOT WARRANT AND IS NOT RESPONSIBLE OR LIABLE FOR ANY WARRANTY WORK OR SERVICES PROVIDED BY SUCH PRODUCTS MANUFACTURERS AND/OR ANY THIRD-PARTIES RETAINED TO PROVIDE SUCH WARRANTY WORK OR SERVICES. ETTRACTIONS WILL USE COMMERCIALY REASONABLE EFFORTS TO ASSIST PURCHASER'S EFFORTS TO BENEFIT FROM ANY AVAILABLE MANUFACTURER WARRANTIES, AT PURCHASER'S EXPENSE.

4. Limitation of Damages. Ettractions shall not be liable for any damage to the Products caused by Purchaser's negligence, willful misconduct, or failure to properly use or supervise the use of the Products in connection with the manufacturer's specifications or otherwise. Ettractions's liability for any and all loss or damage to Purchaser resulting from any cause whatsoever including but not limited to Ettractions's negligence, or damaged or defective Products (irrespective of whether such defects are discoverable or latent or whether the claim arises out of tort, contract or any other legal theory), will in no event exceed the purchase price of the particular Products actually paid as of the date of loss with respect to which losses or damages are claimed. INDEPENDENT OF ANY OTHER PROVISION OF ATTACHED ORDER CONFIRMATION OR THESE TERMS, PURCHASER ACKNOWLEDGES AND AGREES THAT IN NO EVENT WILL ETTRACTIONS BE LIABLE TO PURCHASER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGE, LOST PROFITS, LOSS OF BUSINESS OR GOODWILL, OR INJURY TO PROPERTY. ETTRACTIONS WILL NOT BE LIABLE FOR LOSS OR DAMAGE, DIRECTLY OR INDIRECTLY ARISING FROM THE USE OF PRODUCTS BY ANY PARTY, INCLUDING WITHOUT LIMITATION CLAIMS FOR DAMAGE ARISING FROM PURCHASER'S OR PURCHASER'S CUSTOMER'S HANDLING, STORAGE, OR USE OF PRODUCTS.

5. Administration. The parties recognize that purchase orders, letters, e-mail, text messages, invoices, releases and other routine communications (collectively "Forms") may be used to implement or administer provisions of the Order Confirmation to which these terms and conditions are attached. Therefore, the parties agree that these terms and conditions will prevail in the event of any conflict between them and the provisions of such Forms, or any provisions of Forms that add to, vary, modify or are at conflict in any way with the provisions hereof.

6. Export Regulation. Purchaser agrees that it will not sell, re-sell, export, or re-export any Products in such a manner or to such a party that such resale or re-export would cause a violation of the Export Administration Regulations or any other export control law or regulation of the United States, and agrees to indemnify, defend and hold harmless Ettractions from and against any and all liability with respect to any such sales or export efforts by Purchaser.

7. Governing Law. This Agreement shall be governed by the laws of the State of New York, without reference to its conflict of laws provisions. The United Nations Convention of Contracts for the International Sale of Goods (Vienna Convention) will not apply. Purchaser agrees to the exclusive jurisdiction of the courts of the State of New York sitting in New York County or the United States federal courts sitting in the Southern District of New York.

8. Basis of Bargain. PURCHASER AND ETTRACTIONS RECOGNIZE AND AGREE THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL, BARGAINED FOR BASES OF THIS AGREEMENT, AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.