



TERMS AND CONDITIONS OF SALE

The following are the conditions of sale and any order accepted by Extol of Ohio, Inc. ("Seller" and "Extol") and its acceptance of the Customer's order is expressly conditioned on the Customer assenting to these conditions of sale.

PRICES AND ACCEPTANCE

1. All orders are custom made and produced by Extol.
2. The prices quoted are FOB point(s) of shipment and are good for 30 days. Any prepaid shipping charges are to be paid by the Customer. Prices are exclusive of sales, use, or similar taxes and any such taxes now in effect or hereinafter imposed will be added to the prices.
3. Orders and sales contracts are subject to acceptance by the Seller and are not binding on the Seller until and unless accepted.
4. Shipment commitments are based on and contingent with orders in process and production schedules effective the date of this confirmation. Stated shipment dates are approximate and are dependent upon Extol timely receiving (a) the Customer's acceptance of these conditions of sale, (b) any required advance payment and (c) all necessary engineering information. The product shall be shipped FOB point of shipment and the Customer assumes all risk of loss thereafter.
5. Extol will confirm Customer's orders and quotes in writing by fax or email. Customer must contact Extol immediately to notify Extol of any errors or changes in the order.
6. Invoices will be priced at the prices in effect at the time of shipment in accordance with the applicable price list.
7. All prices are subject to change without notice. Extol will make best efforts to provide written notice of price changes before they take effect, based on vendor notification.

LIMITED WARRANTY

1. Extol warrants that products fabricated by it, where applicable; conform to tolerances set forth in ASTM C585.
2. Extol has no control over defects in material and workmanship caused by its vendor manufacturers of insulation materials and accessories for fabrication into pipe covering and other shapes. Extol does not warrant against defects in the raw material that Extol purchases from outside manufacturers.
3. Customer shall promptly notify Seller of any material claimed to be defective. Such materials shall be subject to inspection by Seller and/or Seller's supplier.
4. If material is proven defective, Seller or Seller's supplier will, at its option, either repair or replace any material; said replacement will be F.O.B. Seller's manufacturing plant and Customer will be responsible for shipping charges.
5. No warranties exist by virtue of advertisement or previous literature supplied by seller, or by course of dealing or trade usage and all such warranties are expressly disclaimed by Seller.
6. Extol will exclusively determine whether correction of any defect or failure under this warranty shall be remedied by repair or replacement. Extol shall have no liability under this limited warranty unless all repairs to the product are made under Extol's supervision, or with Extol's prior written approval. If Extol's examination of the product determines the product to be defective under the terms of this limited warranty, return shipment shall be prepaid by consignee. Title to any replaced material shall pass to Extol. This warranty does not cover product accessories, parts, or attachments that are not fabricated by Extol. All claims filed under this warranty must be presented to Extol in writing and delivered by registered or certified mail during the warranty period and not more than 30 days after notice of any apparent defect.



This limited warranty is extended to the original owner of the products purchased hereunder and is not transferable and is not assignable. This warranty does not cover ordinary wear and tear, appearance, misuse, abuse, neglect, alterations, unauthorized repairs, installation design customer workmanship, mixture with other products, use of accessory materials, conditions of application, acts of God, or failure to maintain the product as directed by Extol.

No other party, including Original Equipment Manufacturers, Distributors, Dealers, or installers, is authorized to make any other representation or warranty, or assume or create any obligation on behalf of Extol other than by referring the customer to this limited warranty.

This limited warranty shall be construed in accordance with and be governed by the laws of the State of Ohio without giving effect to the conflict of law rules of Ohio.

THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH EXTEND BEYOND THE DESCRIPTION AS STATED HEREIN. IN NO EVENT SHALL EXTOL BE RESPONSIBLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER FOR PROPERTY DAMAGE OR PERSONAL INJURY, TO ANY PERSON, WITHOUT LIMITATION, BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY, NOR ANY CLAIMS WHATSOEVER OF ANY THIRD PARTIES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

LIMITATION OF LIABILITY

EXTOL SHALL NOT BE RESPONSIBLE TO THE CUSTOMER OR ITS AFFILIATES FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, BUSINESS INTERRUPTION, OR OTHER INCIDENTAL, PUNITIVE OR ECONOMIC DAMAGES (INCLUDING THOSE ASSOCIATED WITH IMPROPER, UNDERCALCULATED OR UNDER-ACCRUED TAXES OR GOVERNMENT LEVIES), WHETHER ARISING FROM THE CUSTOMER'S USE OF THE PRODUCTS, EQUIPMENT OR HARDWARE (OR INABILITY THEREOF), SERVICES PROVIDED IN CONNECTION HERewith, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. EXTOL SHALL NOT, BY REASON OF THE DISCONTINUATION OR MODIFICATION OF THIS AGREEMENT, BE LIABLE TO THE CUSTOMER FOR COMPENSATION, REIMBURSEMENT OR DAMAGES ON ACCOUNT OF THE LOSS OF PROSPECTIVE PROFITS, OR ON ACCOUNT OF EXPENDITURES, INVESTMENT OR COMMITMENTS MADE IN CONNECTION WITH THE ESTABLISHMENT, DEVELOPMENT OR MAINTENANCE OF THE CUSTOMER'S BUSINESS. IN NO EVENT SHALL THE CUSTOMER BE ENTITLED TO RECOVER OR COLLECT ANY DAMAGES IN THE AGGREGATE IN EXCESS OF AN AMOUNT EQUAL TO THE MONIES PAID HEREUNDER DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CUSTOMER'S FIRST CLAIM OF THE ALLEGED DAMAGES.

FORCE MAJEURE

Neither party shall be responsible to the other or to any third party for any failure, in whole or in part, to perform any of its obligations hereunder to the extent and for the length of time that such failure is due in whole or in part to circumstances beyond the reasonable control of the party failing in such performance, which such circumstances could not be avoided through the exercise of due care. Nothing in this section shall excuse or limit Customer's obligation to pay invoices as and when the same are due.

CLASS OF TRADE

To the extent not prohibited by law, Seller reserves the right to select its customers and sell direct to U.S. Government agencies or to other class of trade.



SALES TAX

Any sales tax now in force and any tax, import, levy, duty or other charges hereafter imposed by any governmental or other authority upon the production, use or sales of any goods ordered hereunder or upon the materials, methods or machines for producing the same, shall be added to the purchase price as herein noted or any revision hereof, and shall be paid by Customer.

TERMS OF PAYMENT

1. Standard terms are net 30 days.
2. Unless otherwise stated hereon, payment shall be sight draft bill of lading. Interest shall accrue on overdue accounts at the rate of 1.5% per month, or the maximum rate permitted by law, whichever is less, until paid. Invoices will be rendered according to schedule terms described in the sale order or when the product is shipped or on the originally scheduled shipment date if there is mutual agreement on the postponement of shipment. All invoices shall be due and payable at 208 Republic St., Norwalk, Ohio 44857.
3. Should Customer's credit become impaired or deemed unsatisfactory by Seller, Seller may require payment or security satisfactory to Seller, before commencing manufacture or delivery of any goods hereunder. Failure to demand such payment or security shall not constitute a waiver of Seller's right later to do so, and such demand, if made, shall not alter the obligations of Customer with regard to said order.
4. Cash discount, if any, will be allowed only as provided on the face of the invoice. The invoice will be due net the day following the discount date appearing on the face hereof.

RETENTION OF TITLE AND CREATION OF SECURITY INTEREST

Extol shall retain title and right to repossess the product described in the sales order until full and final payment has been received. In the event of default of any payment required hereunder Extol may, at its option, repossess said product wherever found free from all claims whatsoever, in which event Extol shall not be liable in any action at law or otherwise for such reclamation, nor for the repayment of any money which may have been paid by the Customer in part payment for said equipment, all such prior payments to be deemed and treated as liquidated damages for the use of said product and not as a penalty.

No part of the product hereon described shall be considered to be a fixture or part of realty by reason of the manner of its installation.

From the time the product leaves the plant the Customer shall assume all risk of loss resulting from damage or injury thereto and Customer shall provide and maintain, at its expense, insurance against loss or damage by fire or other casualty.

By assenting to this Agreement, the Customer hereby grants a security interest to Extol in the property described in the sales order any and all accessions thereto and proceeds from the sale thereof to secure the payment of the purchase price (including interest, if any) of such described property and does authorize the filing of this form with any public offices necessary to perfect such security interests.

FREIGHT AND SHIPMENTS

1. Product is shipped F.O.B. Norwalk, Ohio, with no freight included.
2. Every effort is made to meet project releases and project schedules, however, Extol, at its sole discretion, shall determine the sizes and quantities of the product making up each shipment. Further, Extol makes no warranty as to the date of each shipment, or as to the number of shipments required to complete the order.



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3. Extol may suspend or postpone shipment in case of war, riot, fire, explosion, flood, labor difficulties, inability to obtain fuel, power, material, or other cause beyond Extol's control. Any shipment so suspended may be canceled at Extol's option. Extol shall in no way be liable for any loss resulting from causes herein set forth.
4. Except as described in the preceding paragraph, there shall be no postponement of shipment or cancellation of an order or contract unless by mutual agreement of the Customer and Extol. If there is mutual agreement on cancellation of the order, the Customer is liable for a cancellation charge based on the percentage of completion of the order as of the cancellation date.
5. Seller reserves the right to route all shipments. Unless otherwise provided herein, or by a supplement hereto, title to any products shipped hereunder, the entire risk to or loss of such products, the risk of delay in transportation and/or delivery, and all other risks of whatsoever kind from whatsoever cause arising, all shall pass to and are assumed by Customer upon delivery by Seller to a common carrier or, if the Customer has requested shipment by or delivery to a carrier or vehicle other than a common carrier, upon delivery of such products by the Seller to the Carrier or vehicle so designated by Customer, regardless of the form of bill of lading.
6. Extol is not responsible for delivery time by freight carriers when the order leaves the dock at Extol.
7. Customer may pick up materials with prior arrangement; Seller reserves the right to schedule the time of loading.

MISSING PRODUCT, DAMAGED PRODUCT or CONCEALED DAMAGE

1. Claims for shortages, defective materials or non-conformity of specifications, must be made immediately in writing upon receipt and inspection of materials so that they can be investigated promptly. Failure to make such claim shall constitute a waiver by Customer of any claims for non-conformities, shortages or defects which would have been revealed by prompt inspection of the materials in the shipment and shall not constitute grounds for revocation of Customer's acceptance of the goods in question nor excuse Customer from any obligation under this agreement.
2. Customer shall make sure that the box count is correct before signing Proof of Delivery.
3. Extol will make best efforts to file a claim with the freight company to recover the cost to remake and ship damaged product that is recorded on the Proof of Delivery at the time of delivery and immediately supplied to Extol.
4. There is no guarantee that concealed damage claims will be paid to Customer for damage that had not previously been recorded on the Proof of Delivery at the time the material was delivered. Customer shall contact delivering freight terminal immediately to obtain a claim number and start the claim process. Extol will use its best efforts to help facilitate Customer's claim.

RETURNS

1. No product shipped to Customer by Seller shall be returned to Seller unless such return is expressly authorized by Seller in writing.
2. All returns must take place within 30 days of original invoice.
3. Only standard type and pipe sizes of plain, unjacketed insulations can be returned.
4. Cellular glass and/or Trymer materials will not be accepted for return.
5. Fitting, valve, vessel, specialty heads and other items that are custom fabricated cannot be returned.
6. Seller will extend return credit only on products returned and approved by Extol to be in good, marketable, and sellable condition.



7. A 20% restocking charge plus freight charges will apply to all returns.

PROPRIETARY RIGHTS

Extol will retain exclusive ownership in all deliverables created by Extol hereunder and will own all intellectual property rights, title and interest in any ideas, concepts, know how, documentation or techniques developed by Extol under this Agreement. Extol will also retain all intellectual property rights with respect to the tools and/or software that Extol uses to produce and fabricate its products.

INDEMNIFICATION

Customer accepts responsibility for, and agrees to indemnify and defend Extol and its employees, officers and shareholders against all claims, causes of action, damages, judgments, costs of expenses, including attorney fees and other litigation costs, which may in any way arise from neglect or misuse arising out of the installation and use of Extol's products.

LEGAL MATTERS

The Agreement shall be construed in accordance with and be governed by the laws of the State of Ohio, without giving effect to the conflict of law rules of the State of Ohio, USA, as if this contract were made and to be performed entirely within the State of Ohio, USA, for all claims or actions arising under or relating in any way to this Agreement or the relationship between the parties, whether sounding in contract, tort, or otherwise, and regardless of whether persons or entities who are not a party to this Agreement are parties to such action.

Customer and Extol agree that any legal or equitable action for claims, debts or obligations arising out of, or to enforce the terms of, this Agreement may be brought in the United States District Court for the Northern District of Ohio, or in the Common Pleas Court of Huron County, Ohio, and that either court shall have in personam jurisdiction over the parties and venue of the action shall be appropriate in each such court.

MISCELLANEOUS

If a court of competent jurisdiction holds any provision of this Agreement illegal, invalid, or unenforceable, all other provisions shall remain in full force and effect. No waiver of any breach of any provision of the agreement shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions of the Agreement, and no waiver shall be effective unless made in writing and signed by the waiving party. No amendment to this Agreement is effective unless in writing and signed by Customer and Extol. Customer shall not be entitled to set off or reduce any of its claims against or by claims of Extol, or to avail itself of a right to retention under civil or commercial law, except where the Customer's right of claims has been confirmed pursuant to a valid court order to which Extol is subject. Section headings are intended for convenience only and shall not be deemed to supersede or modify any provisions hereof. These terms and conditions (and any documents incorporated by express reference) together constitute the entire integrated Agreement between Customer and Extol with respect to the subject matter hereof; it represents the final understanding between the Customer and Extol regarding the maintenance service to be provided and merges all prior contemporaneous communications with respect thereto. The Agreement is the final statement of the rights and responsibilities of each with respect to the subject matter hereof, and Customer has not relied on any statements of Extol, either oral or written, that are not expressly included herein.

These terms and conditions cover any and all sales and services provided by Extol.