

Standard Conditions of Sale

Shipment

When ordering, Buyer should explicitly state the method of shipment preferred, and in the absence of shipping directions, Seller will use discretion in method of shipment. Shipments will only be insured at Buyer's request and expense.

Claims

All materials are sold F.O.B. Seller's factory (unless otherwise specified), and Seller's responsibility ends upon delivery to first carrier. All claims for loss or damage must be rendered by the consignee against the transportation company within fifteen (15) days of receipt. A copy of this notice shall also be forwarded to Seller within five (5) days of receipt.

Cancellations

Orders may be cancelled by Buyer only upon written notice, and upon payment to Seller of reasonable and proper cancellation charges.

Sales and similar taxes

Any tax imposed by any present or future law of Federal, State or any other government authority on the manufacture and/or sale of the articles in this catalog,, shall be added to the amount to be paid by Buyer.

Instructions in case of breakage, damage, shortage or incorrect shipment

Breakage or Damage

Freight, Express or Truck Delivery

NOTE: According to the contract terms and conditions of the carrier, the responsibility of the shipper ends at the time and place of shipment. The carrier then assumes full responsibility for the shipment.

1. Notify local agent of the transportation company immediately.
2. Hold damaged goods with container and packaging for inspection of examining agent. Do not return any goods to Seller prior to inspection and authorization of transportation company.

3. File claim against transportation company. Substantiate claim by examining agent's report. Certified copy of Seller's invoice will be available upon request. Original B/L is attached to Seller's original invoice. If the shipment was prepaid, write for receipted transportation bill.

4. Advise Seller of need for replacement.

Parcel Post Shipment

1. Notify Seller at once in writing, giving details of the loss or damage. This information is required for Seller to file a claim with its insurance company.

2. Hold damaged goods with container and packing for possible inspection by postal authorities.

3. Advise Seller of need for replacement.

United Parcel Service

1. Contact local UPS office regarding damage and insurance claim.

2. Retain container and packing.

3. Each UPS office has different methods of handling claims, and will advise regarding its procedures.

4. Advise Seller of need for replacement.

Shortage

1. Check packing list notations. The apparent shortage may have been marked as an intentional short-shipped (Back Ordered) item.

2. Re-inspect container and packing material, particularly for the smaller items.

3. Ascertain that the item was not removed by unauthorized personnel prior to complete unpacking and checking.

4. Notify Seller immediately of shortage in writing.

Incorrect Shipment

1. If material received does not correspond with Buyer's order, notify Seller immediately, referencing order number and item.

2. Hold incorrect items until return shipping instructions are received.

Returns

DO NOT RETURN ANY DAMAGED OR INCORRECT ITEMS UNTIL SHIPPING INSTRUCTIONS ARE RECEIVED.

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All returns are subject to a 20% restocking charge plus shipping and handling fees unless the following applies:

1. The product is in its original packaging and has not been opened.
2. The buyer notifies BYK-Gardner within 15 days that the wrong item(s) were ordered.
3. The product is returned within 30 days of invoice date and in like new condition.
4. There is an exception request approved in writing with the appropriate signature.
5. There is a manufacturer defect or recall.
6. There is a BYK-Gardner shipping error.

Prices

In a rare event of a printing error, BYK-Gardner reserves the right to charge the correct price. We also reserve to change prices without notice should market conditions unforeseeably change. All published prices are in US dollars and must be paid in US dollars.

General

Orders submitted on Buyer's own Purchase Order forms, which contain statements, clauses, or conditions modifying, adding to or inconsistent with the terms and provisions herein contained, are accepted by Seller only upon condition and with the express understanding that the liabilities of Seller shall be determined solely by its own terms and conditions of sale, and in accepting and consummating any such order Seller shall be deemed not to have in any way modified its liabilities or obligations as fixed by such terms and conditions of sale as stated by Seller herein, and unless written notice to the contrary is received by Seller within ten (10) days, additional terms contained herein shall become part of Buyer's contract with Seller.

Warranties

Seller's Products: Seller warrants all apparatus manufactured by it to be as described herein and to be free from defects in material and workmanship under normal use and service. Seller's obligation under any warranty is limited to and Buyer's exclusive remedy hereunder shall be, repair or replacement, F.O.B. Seller's factory, of any defective parts, when returned to Seller by Buyer, transportation prepaid, which Seller's examination discloses to have been factory defective. THIS WARRANTY IS IN LIEU OF ANY WARRANTY OF MERCHANTABILITY, OR FITNESS, OR ANY

OTHER WARRANTY, EXPRESS OR IMPLIED. The time limit of this warranty is one year from date of shipment of new apparatus unless otherwise specified in Seller's Catalog. Seller shall not be liable for consequential damages, in any event.

Other Products: Other items sold by Seller are sold under the brand or trade name of their respective manufacturers. ALL SUCH OTHER PRODUCTS ARE SOLD WITHOUT ANY WARRANTY OF MERCHANTABILITY, OR FITNESS, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. However, to the extent any such other products are warranted by their manufacturers, or others, for the benefit of Buyer, Seller will use its best efforts to assist Buyer in forwarding any warranty claim to the party responsible for its disposition. Seller shall not be liable for consequential damages. **Repaired Products:** All repair work done by Seller is warranted to be free from defects in material or workmanship under normal use and service. Seller's obligation under this warranty is limited to, and the exclusive remedy hereunder shall be, repair or replacement, F.O.B. Supplier's factory, or any defective parts installed by Seller, when returned to Seller, transportation prepaid, which Seller's examination discloses to have been factory defective. The time limit of this warranty is three (3) months from date of shipment. THIS WARRANTY IS IN LIEU OF ANY WARRANTY OF MERCHANTABILITY, OR FITNESS, OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. Seller shall not be liable for consequential damages, in any event.

Expendable Items: This Warranty does not cover expendable items such as lamps, fuses, etc.

IMPORTANT: This Warranty is void if the user has made unauthorized repairs, improper installation, or improper use of the instrument.

Patent protection

Seller agrees to indemnify and save harmless Buyer against all damages and costs that may be directly and reasonably occasioned by or required for the defense, appeal, settlement, or other necessary disposition of any action at law, suit in equity, or counterclaim instituted by a person, firm or corporation against Buyer, which alleges that the equipment purchased hereunder infringes a claim or claims of any United States Letter Patent; provided Buyer has met and is meeting all terms and conditions of this contract and, the equipment is being used in accordance with Seller's instructions relating thereto; and provided further that Buyer promptly notifies Seller in writing of any charge of infringement; and provided further that the defense of such action, suit or counterclaim shall be under the direction and control of Seller, and all necessary information, assistance, and authority shall be furnished by Buyer. It is further expressly stated and agreed that this patent indemnity shall only apply where the specification,

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design and method of operation of the equipment furnished hereunder originated in Seller. Where the specification, design, or method of operation of the equipment furnished hereunder originated in Buyer, Buyer agrees to indemnify and save harmless Seller in the same manner as set forth above.

Deliveries

Every effort will be made to fill orders within the time promised, and Seller expects to keep such promises unless prevented by inability to procure materials, strikes, fires, accidents, or other uncontrollable causes.

Terms and payment

All bills are due and payable within thirty (30) days after date of invoice. If, in the judgement of Seller, the financial condition of Buyer does not justify continuance of production or shipment on the terms specified, Seller may require full or partial payment in advance, or the acceptance by the Buyer of C.O.D. deliveries.

Credit balance

Customer agrees that any credit balances issued will be applied within one (1) year of its issuance. IF NOT APPLIED OR REQUESTED WITHIN ONE (1) YEAR, ANY BALANCE REMAINING WILL BE SUBJECT TO CANCELLATION, AND SELLER SHALL HAVE NOT FURTHER LIABILITY.

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