

Costa Technical Services, terms and conditions of sale

1. **SELLER:** The term "Seller" as used herein will refer to Costa Technical Services, except in such instance where this Sales Contract is to be acted upon and invoiced by another company or manufacturer, and this is so stated elsewhere in this document; in such instance the Seller's participation in this transaction shall be limited to that of agent for said manufacturer or company, and said manufacturer or company's standard terms and conditions of sale will become applicable to this transaction, and are hereby incorporated by reference. These terms of said sale will be made available by Seller upon request.
2. **ACCEPTANCE:** This Sales Contract (whether it is described on the face hereof as an Invoice, Proposal, Quotation, Purchase Order, Sales Contract or other descriptive term), when verbally agreed to or signed by the Buyer shall constitute an order by the Buyer at such time as such verbal agreement is conveyed to the Seller or when such signed agreement is physically delivered to the Seller, and upon acceptance of such order by the Seller, either in writing by the Seller, or by the Seller making delivery of the articles covered hereunder, shall constitute the only contract between the Buyer and the Seller for the purchase and sale of such articles. Such acceptance shall be deemed completed at Seller's office located at the address set forth elsewhere in this document, and shall be regarded as a Massachusetts contract. Further, any litigation to resolve any controversies under such contract shall be brought in Worcester County, Massachusetts in the courts of The State of Massachusetts, and in no other jurisdiction. In addition, this contract and the terms and conditions herein set forth may be changed only by written agreement of the parties, and in order to effect such change to this contract or any part thereof, any such changes or additions shall be marked on the face of this Sales Contract and must be initialed by both the Buyer and the Seller.
3. **PRICES AND TERMS OF PAYMENT:** Prices of articles covered herein based upon a cash transaction and are FOB point of shipment unless otherwise indicated. Seller reserves the right to adjust the price of articles covered herein to current prices in effect immediately prior to shipment. Terms of payment are cash with order, unless other terms are agreed to and stated within this Sales Contract.
4. **SALES AND USE TAXES:** Unless otherwise shown on this Sales Contract, no sales, use or excise taxes are included as a part of this Sales Contract. Buyer agrees to reimburse the Seller for ANY such taxes which may be assessed against and become payable by the Seller.
5. **DELIVERY:** Unless otherwise specified elsewhere in this Sales Contract, all shipments shall be FOB from point of shipment, and Buyer shall pay all shipping and insurance costs. Buyer shall have full responsibility for any loss of or damage to articles covered by this Sales Contract after delivery thereof by the Seller to the Carrier for shipment. If any articles are lost or damaged in shipment, it shall be the Buyer's responsibility to file any necessary claims with the Carrier.
6. **RETURNS:** Articles shipped as a part of this Sales Contract are not returnable for credit. Articles may be exchanged or returned for credit only at the sole discretion of the Seller. No articles may be returned to the Seller without prior written return authorization. Seller assumes NO responsibility for unauthorized returns.
7. **WARRANTY:** All articles listed in this Sales Contract are covered only by warranties issued by the original equipment manufacturer. Copies of individual article warranties are available from the Seller upon request. Except as set forth herein and except as to title, there are no warranties, or any affirmations of fact or promises by Seller with reference to the articles, or to the merchantability, fitness for particular application, signal coverage, infringement, or otherwise, which extend beyond the description of the articles contained herein.
8. **DAMAGES:** In consideration for any discounts given to Buyer from the manufacturer's published price, and in consideration of the other terms and conditions contained herein, Buyer agrees that the Seller shall in no event be liable for consequential, special or indirect damages arising out of or connected with this Sales Contract, including but not limited to claims by Buyer resulting from the manufacture, sale, delivery, resale, repair or use of any article or service covered by this Sales Contract.
9. **TITLES AND REMEDIES:** Until full payment of all obligations of Buyer hereunder (whether represented by notes, open account, judgment, or otherwise), Seller reserves title to all articles contained herein, or hereafter in connection therewith, whether or not the same is attached to the realty, and the same shall be considered as personal property and subject to the Purchase Money Security interest of the Seller hereby granted by Buyer. In addition to and in no way limited by the provisions hereof, and subject and in addition to the terms of any security agreement between Seller and Buyer, If Buyer defaults in paying or performing any of his obligations hereunder, or becomes subject to insolvency, receivership or bankruptcy proceedings, or makes an assignment for the benefit of creditors or Buyer, without the prior written consent of Seller, sells, transfers, leases or mortgages the same, or moves it to another site, or any lien is placed herein, or other persons have or acquire an interest therein, or it is seized or attached by process of law, then in any such event Buyer shall be deemed to be in default hereunder. In the event of default hereunder by Buyer, Seller may at his option, with or without notice, treat all amounts owing hereunder by Buyer, regardless of maturity date, to be immediately due and payable (subject to such credits as are required by law in order to enforce this Sales Contract); and repossess articles delivered to Buyer hereunder. Seller may also upon such notice, if any, as required by law, keep the articles as its own, free from any claim on part of Buyer, retaining as compensation for the use or decrease in value of the articles all payments made thereon by Buyer.
10. **GENERAL PROVISIONS:** a. The waiver by Seller of any breach or any term, condition or covenant herein shall not be deemed a waiver of any other breach or any other term condition or covenant. Section headings herein are for convenience and shall not be deemed to be among the terms, conditions or covenants herein. b. Each provision of this Sales Contract is severable and, in the event that any one or more thereof may be declared invalid, the remainder shall nonetheless remain in full force and effect. c. Seller reserves the right to correct clerical or typographical errors at any time without penalty.