



# Jules Borel & Co. Terms and Conditions of Sale

Jules Borel & Co. is herein referred to as the “Seller” and the customer or person or entity purchasing products (“Products”) from Seller is referred to as “Buyer.” These Terms and Conditions and any price list, schedule, quotation or invoice from Seller relevant to the sale of Products and all documents incorporated herein by reference or incorporated by reference in any such price list, schedule, quotation or invoice, constitute the entire agreement (“Agreement”) between Buyer and Seller regarding such sale. In the event of conflict between the language of a price list, schedule, quotation or invoice, the provisions of these Terms and Conditions will prevail.

## 1. PRICES.

All prices are subject to change without notice and are subject to Seller’s prices in effect at the time of shipment. All prices are net and exclude any taxes (including, but not limited to, city, county, state, and federal taxes where applicable), transportation, insurance and handling, which are to be borne by Buyer. Buyer shall indemnify, defend and hold Seller and its affiliates, officers, directors, owners and employees harmless from any loss, claim or damage suffered by Seller as a result of Buyer’s failure to pay such sums.

## 2. TERMS OF PAYMENT.

The general payment terms for the Products shall be Net 30, payments due 30 days after invoice date, unless otherwise agreed to by Seller in writing. Additional terms may and will be applicable depending on the customer and method of purchase. Seller reserves the right to modify payment terms as needed. Seller reserves the right before making any delivery to require payment in cash or security for payment. Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further performance under the Agreement with Buyer in the event Buyer fails to make any payment when due (including, but not limited to, payment in advance or providing security for payment) or if Buyer fails to comply with any provision of the Agreement. Buyer shall be liable for all expenses, including attorneys’ fees, relating to the collection of past due amounts. If any payment owed to Seller is not paid when due, it shall bear interest at a rate equal to the lesser of (i) 1.5% per month or (ii) the maximum interest rate allowable under law. Should Buyer’s financial responsibility become unsatisfactory to Seller, cash payments or security satisfactory to Seller may be required by Seller **FOR FUTURE DELIVERIES.**

## 3. SECURITY INTEREST.

Buyer hereby grants Seller a security interest in all Products sold to Buyer by Seller, which security interest shall continue until all such Products are fully paid for in cash, and Buyer, upon Seller’s

demand, will execute and deliver to Seller such instruments as Seller requests to protect and perfect such security interest. If Buyer fails to make payment for any Products when due, Seller reserves all of its rights and remedies at law or in equity, including Seller’s right to retake possession of such Products.

## 4. RETURN POLICY

Subject to the provisions below, and excluding movements, products may be returned within 30 days of receipt. No returns will be issued past 30 days. All products received for credit must have a Return Authorization Number (RMA) issued by Seller. This number must be printed on the outside of the returned package.

Buyer is responsible for insuring the returned product. This insurance will cover cost of the item in the event of carrier damage or lost package. Returned items must be in sellable condition and may incur a minimum 10% restocking fee. Buyer agrees to pack all items in original Seller packaging, including any instructions or literature.

### Return Merchandise Authorization (RMA)

Buyer agrees to contact Seller, either via phone or through our website, stating the reason for item return and invoice number to receive an RMA number. RMA numbers can be found under “My Account” tab after logging in, select the order number which the item was purchased then follow directions for “Request a Return”. Items received without an RMA may be returned to Buyer at Buyer’s expense. The provision of an RMA is not an admission by Seller that the product is defective or is appropriate for return. Seller retains the right in its discretion to reject the return for cause and return it to Buyer at Buyer’s expense.

### Movement Returns

Movement manufacturers do not warranty movements used for repair purposes. Buyer agrees to inspect all movements upon receipt and before installation. If a movement is defective when received, Buyer agrees to call for an RMA. Buyer must return the movement, including all parts, in the original movement packaging within 10 days of the purchase date. Movements which have been installed will not be accepted for return. Movements returned after 10 days of the purchase date may be returned to Buyer at Buyer’s expense.

**NO RETURNS WILL BE ACCEPTED ON BATTERIES, CIRCUITS, COILS, CAPACITORS OR SPECIAL ORDER ITEMS, UNLESS THE NEED FOR RETURN IS CAUSED BY SELLER’S ERROR.**

## **5. LIMITED WARRANTIES.**

### **WITH RESPECT TO ALL PRODUCTS SOLD SELLER MAKES NO WARRANTIES.**

All products sold by Seller are sold **AS IS AND WITH ALL FAULTS**. However, the third-party manufacturer or supplier of a Product may offer its own warranties, and Buyer agrees to look solely to such manufacturer or supplier for any warranty related claim.

**SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

## **6. LIMITATION OF LIABILITY.**

**THE LIABILITY OF SELLER SHALL BE LIMITED TO THE PRICE PAID FOR THE PRODUCTS. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR OTHERS FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, OR FROM THE FURNISHING, PERFORMANCE OR USE OF ANY PRODUCTS SOLD PURSUANT HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE. SELLER SHALL HAVE NO LIABILITY TO BUYER OR OTHERS FOR INDIRECT OR PUNITIVE DAMAGES, ATTORNEYS' FEES OR FOR ANY CLAIM BY A THIRD PARTY.**

## **7. DELIVERY, RISK OF LOSS.**

Seller shall use its reasonable judgment in making selection of a delivery service, provided that, in no event shall Seller be responsible for any delays or excess transportation charges resulting from its selection. Buyer shall bear all risk of loss to the Products immediately after Seller's delivery of the Products to the delivery service thereof, due to any cause whatsoever.

## **8. FORCE MAJEURE, DELAYS.**

Seller shall not be liable for delay in or prevention of its performance due to causes beyond its reasonable control, including but not limited to acts of God, strikes or other labor disputes, labor or material or transportation shortages, acts of governments, terrorism, war or other similar occurrences.

## **9. DEFAULT.**

It shall be deemed a default hereunder and Seller may terminate any previously accepted purchase order upon the occurrence of any of the following events: (a) if Buyer shall fail to comply with any of the covenants or conditions contained in this Agreement,

or (b) if a material change occurs in Buyers financial condition, or Seller believes the prospect of payment or performance of the Buyer's obligations hereunder are impaired. Seller shall provide written notice of such termination in the event of the items above. Buyer shall pay the entire amount of the agreed price for the Products immediately upon such termination, less any direct costs and fees saved by Seller as a result of such termination. Such rights of Seller shall be in addition to any other rights and remedies of Seller as set forth herein or as allowed by law or in equity.

## **10. MISCELLANEOUS.**

(a) Buyer agrees it will not assign this Agreement in whole or in part without Seller's prior written consent, which may be withheld for any reason. (b) This Agreement shall be binding upon the successors and assigns of Seller and Buyer, and shall be governed by and construed in accordance with the laws of the State of Missouri. In the event of a dispute between the parties to enforce this Agreement, the Seller and Buyer agree that the venue shall be any state or Federal court in the State of Missouri. (c) These Terms and Conditions shall survive the cancellation, termination and satisfaction of this Agreement. (d) Failure by Seller to exercise or enforce any rights under this Agreement shall not be deemed to be a waiver of any such right and shall not prevent Seller from exercising or enforcing any such right at any time thereafter. (e) If any provision of this Agreement is determined to be unenforceable, such unenforceability will not affect any other provision of this Agreement. (f) All Seller's products are sold pursuant to the provisions of this agreement. The provisions of this agreement shall govern and prevail over the provisions of any purchase order, memorandum or other communication from Buyer in the absence of a separate written contract signed by an officer of Seller.