

CONDITIONS OF SALE



1. **ACCEPTANCE:** The following Conditions of Sale apply to all sales of ONICON's products. These provisions shall apply even if ONICON fails to object to provisions appearing on, incorporated by, referenced in, or attached to Buyer's purchase order form. Buyer's acceptance of delivery of ONICON's products constitutes its acceptance of these Conditions of Sale.
2. **DELIVERY AND TITLE:** All product shipments are F.O.B. shipping point and title passes to the Buyer at the time ONICON delivers the merchandise to the carrier. Risk of loss or damage to the product passes to the Buyer at the time ONICON delivers the product to the carrier. The Buyer immediately upon receipt should inspect all shipments, and should there be any evidence of damage or loss in transit, Buyer must file claims or tracers upon carrier. ONICON will assist in tracing shipments upon request.
3. **LIMITED WARRANTY:** ONICON warrants that for a period of two (2) years following the date of original shipment of an ONICON product: (i) the product will conform to ONICON's standard written specifications applicable to such product in effect on the date of Buyer's order, or as modified by ONICON's quotation or Buyer's purchase order accepted by ONICON, (ii) the product will be free from defects in workmanship, and (iii) that ONICON has title to the product prior to shipment to the Buyer; provided, however, that the warranties provided herein shall be void and may not apply in the event Buyer misuses or damages a product, including, but not limited to, any use by the Buyer of a product for an application other than one of a type approved by ONICON. ONICON's sole liability and Buyer's sole remedy for any breach of the foregoing warranty is for ONICON to repair or replace, at ONICON's option, any defective product that is returned to ONICON during the warranty period. EXCEPT AS MAY BE SPECIFICALLY AGREED BY ONICON IN WRITING IN RELATION TO EACH SALE, NO OTHER WARRANTIES SHALL APPLY, WHETHER EXPRESSED, IMPLIED OR STATUTORY, AND THERE SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
4. **REMEDIES:** ONICON's OBLIGATION UNDER THE FOREGOING WARRANTIES IS LIMITED SOLELY TO REPAIR OR REPLACEMENT, AT ONICON'S OPTION, OF DEFECTIVE OR NONCONFORMING PRODUCTS. ONICON SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR SPECIAL DAMAGES WHETHER FOUND ON CONTRACT, TORT OR ANY OTHER THEORY OF LAW. No products shall be returned to ONICON without its prior consent and transportation and insurance costs shall be prepaid. Any repair or replacement of ONICON's products under the foregoing warranty will be at no charge to the Buyer provided such repair is done at the ONICON factory or authorized service center. ONICON products that are repaired or replaced under this warranty will be returned to Buyer via the same method of shipment used to return the product to ONICON. Repair or replacement of ONICON products is conditioned upon ONICON's acknowledgement of any alleged defect or nonconformance during the warranty period and issuance of a Return Authorization number. All product returns must reference the Return Authorization number on the outside of the shipping carton and on any paperwork referencing the return.
5. **PRICES AND PAYMENT TERMS:** The prices set forth in the most recent quote or acknowledgement as applicable, supersede all previous prices or quotations. All quotations are subject to change or withdrawal without notice except as may be specifically noted on the face of the quotation. The prices shown do not include sales, excise or government charges payable by ONICON to Federal, State, or local authority. Any such tax or charge now or hereafter imposed upon the sale or shipment of the products under this contract will be added to the purchase price. Buyer agrees to reimburse ONICON for such tax or charge or provide ONICON with an acceptable exemption certificate. Payment of invoices will be due 30 days from the date of shipment of the products contained therein. In the event that payment of an invoice is not received by the invoice due date, ONICON will assess a late fee not to exceed 1.5% per month or 18% per year, or the maximum allowable by law whichever is lower.
6. **CANCELLATION:** Buyer may cancel its order, or any part of it, by sending written notice of cancellation to ONICON and paying a reasonable cancellation fee as determined by ONICON. The reasonable cancellation fee will reflect, among other factors, the expenses already incurred and commitments made by ONICON, sales and administrative costs and profit as determined by ONICON. If Buyer received a reduced price based on the quantity of products ordered, but has not purchased the applicable quantity at the time of cancellation, Buyer will pay the price it would have paid had ONICON's sale price been based on the quantity actually purchased.
7. **CHANGES:** If Buyer makes any changes in its drawings, designs, or specifications applicable in any contract with ONICON that cause an increase or decrease in the cost of performance of the contract, or if such changes result in rework or obsolescence, an equitable adjustment shall be made to the contract. Such changes are subject to ONICON's prior written consent.
8. **EXCUSABLE DELAY:** ONICON shall under no circumstance be responsible for failure to fill any order or orders when due to: fires, floods, riots, strikes, freight embargoes or transportation delays, shortage of labor, inability to secure fuel, material supplies, or power at current price or on account of shortages thereof, acts of God or of the public enemy, any existing or future laws or acts of the Federal or State Government (including specifically, but not exclusively, and orders, rules or regulations issued by any official or agency of any such government) affecting the conduct of ONICON's business with which ONICON in its judgment and discretion deems it advisable to comply as a legal or patriotic duty, or due to any cause beyond ONICON's reasonable control.
9. **PATENTS:** ONICON shall defend all suits or proceedings brought against Buyer or its customers arising from claimed infringements of any patent, trademark, service mark or copyright for any product furnished by ONICON and shall indemnify it against all costs, fees, and damages on the condition Buyer promptly notifies ONICON in writing and provides information and assistance to enable ONICON to conduct the defense, provided that ONICON shall have no such obligation in case of infringement resulting from ONICON's conformance to special requirements of Buyer. If ONICON is not able to settle any such suit or proceeding on acceptable terms, ONICON may, at its option, require return of the infringing product and refund the purchase price to Buyer less a reasonable allowance for depreciation or use.
10. **FAIR LABOR STANDARDS ACT:** ONICON represents that all products delivered under this contract are furnished in accordance with the applicable provisions of the Fair Labor Standards Act as amended.
11. **APPLICABLE LAW:** This document and any resulting contract shall be governed by and construed in accordance with the laws of the State of Florida. The courts of the State of Florida and the federal courts located in Florida shall have jurisdiction and venue with respect to litigation to this contract. In the event of litigation, the prevailing party shall be entitled to recover attorney's fees and costs from the non-prevailing party, including appellate attorney's fees.
12. **MODIFICATIONS:** These Conditions of Sale along with the prices, quantities, delivery schedules and other provisions and instructions in applicable quotations by ONICON or Buyer's purchase orders accepted by ONICON shall constitute the entire agreement between ONICON and Buyer pertaining to any resulting contract. They can be modified only in writing.