

## Terms and Conditions

The following Terms and Conditions shall apply to the sale of products and implementation of services for Newtex ("NEWTEX"). There are no other terms of sale unless Newtex agrees in writing to different terms with you, the "Purchaser" of Newtex products.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **ACCEPTANCE OF ORDERS** These terms and conditions shall apply to all Products delivered by NEWTEX for Customer. Either party's failure to object to any additional or different provisions proposed by the other shall not constitute a waiver of the terms and conditions of this Agreement, nor constitute acceptance of such additional or different terms and conditions. All Purchase Orders must be accepted by NEWTEX by issuing an order acknowledgement via email or facsimile to Customer. The terms and conditions of this Agreement shall be applicable whether or not they are attached to or enclosed with the Products sold. If there is a conflict between the terms of this Agreement and any other Agreement or any order acknowledgement, the terms of this Agreement shall prevail.
2. **PRICES & TAXES** All prices for Products are set forth on the Order Confirmation and are exclusive of shipping charges all of which are Customer's sole responsibility. All prices are subject to change without notice and are exclusive of all sales, use, excise or value added, taxes, claimed or imposed by any governmental authority upon the sale of the Products and implementation services which shall be the sole responsibility of Customer. Any such charges will be added to the price or subsequently charged to the Customer. In the event NEWTEX is required to pay any such tax, duty or charge, Customer will promptly reimburse NEWTEX.
3. **TERMS OF PAYMENT** Customer shall pay to NEWTEX the total amount set forth on the attached hereof, and all shipping and governmentally imposed charges described in Section 2, above. All payments shall be made in U.S. Dollars in accordance with the terms noted on the Agreement. Any amounts not paid when due will accrue interest at the rate of 1% per month, or the maximum amount allowed by law, if lower. In the event that any payment is more than thirty (30) days late, NEWTEX shall have the right to suspend performance under this and any other Customer Agreements until all payments are made current. Customer shall pay all costs (including reasonable attorneys' fees) incurred by NEWTEX in connection with the collection of late payments. Customer hereby grants NEWTEX a security interest in the Products in the amount of the unpaid balance of the purchase price, and all shipping and governmentally imposed charges described in Section 2, until paid in full. NEWTEX may file a financing statement for such security interest and Customer shall sign any such statements or other documentation necessary to perfect NEWTEX's security interest.
4. **TRANSPORTATION & DELIVERY** NEWTEX's title to the Products and the risk of loss of or damage to the Products ordered by the Customer will pass to Customer when NEWTEX or its agent delivers the Products to a common carrier or licensed trucker consigned to the customer or his agent. The carrier shall be deemed NEWTEX's agent, and NEWTEX is authorized to designate a carrier pursuant to NEWTEX's standard shipping practices unless otherwise specified in writing by Customer. If Seller determines that Buyer's credit position has changed materially, prior to or during shipment, or at any time before acceptance of the goods by Buyer, then Seller may stop delivery of goods to the carrier or other custodians, or goods in the possession of a carrier or other custodian. Such action by Seller will not constitute a breach of this agreement with any resulting damages to Buyer.
5. **CANCELLATION AND RETURNS** Orders for Customized Goods, discontinued Goods and non-standard Goods (including any customization, modification or deviation to standard Goods) cannot be cancelled or returned, and are subject to a 100% cancellation charge. For standard products, a minimum charge of 20% will apply if an order is cancelled before shipment. Additional charges may be assessed for non-stock materials, partial or completed manufacture of non-stock parts, and other related costs. All returned Goods shall be subject to a minimum of 20% restocking charge. All returns must be authorized by NEWTEX in advance.
6. **FORCE MAJEURE** NEWTEX shall not be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its control, including but not limited to acts of God, government actions, war, civil disturbance, terrorism, insurrection, sabotage, labor shortages, or disputes or Customer's fault or negligence.
7. **LIMITED WARRANTY** NEWTEX products are warranted to the original Buyer only against defects in material and workmanship existing at the time of first sale by Seller and of which Seller is notified in writing within one (1) year of the date of delivery to Buyer. This Limited Warranty is the sole warranty and the complete and exclusive warranty and representation made with respect to NEWTEX products; it supersedes all prior on contemporaneous oral or written negotiations, proposals, brochures, circulars and communications with respect thereto, and it may not be changed in the absence of a writing signed by an officer of Seller. The Buyer should carefully consider the use for which NEWTEX products are purchased, and it is the Buyer's responsibility to determine whether these products are adequate and beneficial in the environment in which used. EXCEPT AS SPECIFICALLY PROVIDED IN THIS LIMITED WARRANTY, THERE ARE NO WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, MADE IN CONNECTION WITH THE SALE OF ANY NEWTEX PRODUCT. No dealer, salesman, employee or agent of Seller, or other person is authorized to make any representation or warranty, whether written or oral, other than set forth herein.
8. **LIMITATION OF REMEDY AND LIABILITY** IN NO EVENT SHALL NEWTEX OR ITS SUPPLIERS BE LIABLE TO CUSTOMER FOR LOST PROFITS OR BUSINESS OR ANY INDIRECT, SPECIAL INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE). NEWTEX'S TOTAL AND CUMULATIVE LIABILITY ARISING OUT OF OR IN CONNECTION WITH ANY PRODUCTS PURCHASED BY CUSTOMER SHALL IN NO EVENT EXCEED THE PURCHASE PRICE PAID BY CUSTOMER FOR SUCH PRODUCTS. THE LIMITATIONS SET FORTH IN THIS SECTION 7 SHALL APPLY EVEN IF NEWTEX OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE HEREUNDER CAUSED BY SUCH LIMITED REMEDY.
9. **ASSIGNMENT /MODIFICATION** Customer shall not assign or transfer this Agreement or any rights or obligations under this Agreement, whether voluntary or by operation of law, without the prior written consent of NEWTEX. NEWTEX may assign or transfer this Agreement to any successor by way of merger, acquisition or sale of all or substantially all of its assets. NEWTEX or any successor may assign all or part of the right to payments under this Agreement. Any assignment or transfer of this Agreement made in contravention of the terms hereof shall be null and void. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of the parties respective successors and permitted assigns. This Agreement supersedes all prior communications, transactions, and understandings, whether oral or written, and constitutes the sole and entire Agreement between the parties pertaining to any quotation or other Agreements. No modification, addition or deletion, or waiver of any of the terms and conditions of this Agreement shall be binding on either party unless made in a non-preprinted Agreement clearly understood by both parties to be a modification or waiver and signed by a duly authorized representative of each party.
10. **CONFIDENTIALITY** Each party agrees to: (a) refrain from using the other party's Confidential Information except as contemplated herein and (b) preserve and protect the confidentiality of the other party's Confidential Information using the same measures that such party uses to protect its own confidential information, which in no event will be less than commercially reasonable measures. Notwithstanding the foregoing, either party may disclose Confidential Information of the other party which is: (i) already publicly known; (ii) discovered or created by the receiving party without reference to the Confidential Information of the disclosing party; (iii) otherwise known to the receiving party through no wrongful conduct of the receiving party, or (iv) required to be disclosed by law or court order. Each party agrees not to disclose any of the terms of this Agreement to any third party. However, either party may disclose Confidential Information, and the terms or conditions of this Agreement, to such party's agents, attorneys and other representatives or any court of competent jurisdiction.
11. **BREACH OF CONTRACT** If either party breaches a material provision of this agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach, the non-breaching party shall have the right to terminate this agreement at any time. Customer's breach of a payment obligation constitutes a default the date the payment is due and NEWTEX shall have the right to terminate this agreement immediately. Either party may terminate this agreement, effective immediately upon written notice, if the other party becomes the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or composition for the benefit of creditors.
12. **GOVERNING LAW AND VENUE** This agreement and performance by the parties hereunder shall be construed in accordance with the laws of the State of New York, U.S. A., without regard to provisions on the conflicts of laws. Customer and NEWTEX consent to the exclusive jurisdiction of, and venue in, the state and federal courts within Monroe County, New York, U.S.A.