

Cres Cor Terms & Conditions of Sale

These standard terms and conditions ("Terms and Conditions") govern the sale of goods ("Goods") by Cres Cor ("Seller") to the person or business entity buying such Goods ("Buyer"). These Terms and Conditions shall exclusively govern all purchase orders received from Buyer. No additional, different, or supplemental terms proposed by Buyer—whether in a purchase order or any other document—shall be binding on Seller, regardless of whether such terms conflict with or supplement these Terms and Conditions, unless expressly agreed to in writing by Seller. In the event of any conflicting provisions between these Terms and Conditions and Buyer's purchase order, these Terms and Conditions shall prevail, and Seller shall proceed with the sale under the assumption that these Terms and Conditions constitute the sole and exclusive terms governing the transactions. . Buyer and Seller expressly agree that Seller may modify these Terms and Conditions from time to time without notice, and such modifications shall be binding upon Buyer. Accordingly, each request for quote, order, acceptance of Goods and/or Services and/or payment to Seller by Buyer shall be deemed an acknowledgment and acceptance by Buyer of these Terms and Conditions as then in effect. These Terms and Conditions, as may be subsequently modified by Seller from time to time without notice, are incorporated by reference into all documents issued by Seller to Buyer in connection with the sale and/or provision of Goods and/or Services.

1. ORDERS.

Orders become binding upon Seller only when accepted at our main office in Mentor, Ohio, and an acknowledgment of the order is received by the customer. Representative or dealer is not authorized to bind orders. Buyer may not cancel or modify an order in whole or in part without Seller's prior written consent, to be given or denied in Seller's sole and absolute discretion, and which Seller may condition upon an adjustment of price and/or other terms and Buyer's reimbursement to Seller of its costs and damages in connection with the order and its cancellation.

2. RETURNS.

Merchandise returns require a written request from the buyer and written approval from Cres Cor. All returned items must be prepaid and are subject to inspection upon receipt. Credit will be issued only if the equipment is in new condition, with a minimum restocking fee of 20% or \$50.00, whichever is greater.

Returns will not be accepted under the following conditions:

- The item is custom-built or special-order equipment.
- The return request is made 60 days or more after the original ship date.

In the event of a shipping error by Cres Cor, full credit will be provided upon receipt and inspection of the returned merchandise.

3. LEAD TIME.

Equipment designated as a Top Seller in the catalog typically ships within 3-5 business days from the receipt of the purchase order. Standard catalog items and common accessories generally ship within 3-4 weeks.

For custom or non-standard equipment, please contact the factory for lead time. If expedited service is required, reach out to the Customer Care Department for assistance at 1-877-CRESCOR (273-7267) for further details.

4. NEW ACCOUNTS & CREDIT.

To establish an authorized Buyer relationship, an account application form must be submitted and approved (contact your local representative for forms and instructions). For information concerning your credit status, please call the Credit Department at 1-877-CRESCOR (273-7267). Press Option 5 for Accounts Receivable.

5. TERMS & PRICING.

If Buyer's has been extended credit by Seller's credit department, all payments are due Net 30 days. All prices are F.O.B. facility, Cleveland, OH 44108. Prices, dimensions, specifications, capacities and accessories subject to change without notice. The purchase price of any Goods and/or Services sold and/or provided shall be as stated on the applicable Seller order acknowledgment or accepted purchase order. Seller shall be bound as to purchase price only upon shipment and/or acceptance by Buyer of all or any part of the Goods and/or Services ordered.

6. DELIVERY AND PERFORMANCE.

Unless specifically agreed to by Seller in a separate signed writing, Seller does not guarantee any certain date of delivery and Seller shall not be liable to Buyer for any losses, costs, damages, charges or expenses incurred by Buyer or any other person or entity arising directly or indirectly out of a failure to deliver on any particular date, nor will any delay entitle Buyer to terminate or rescind its purchase unless such delay exceeds sixty (60) days. Seller reserves the right to defer delivery, to cancel the order or reduce the volume of Goods and/or Services delivered, all without liability of any kind whatsoever to Buyer, if Seller is prevented from or delayed in the carrying on of its business due to causes beyond Seller's control, including, without limitation, labor

disputes, lockouts or other labor difficulties, floods, fires, earthquakes, hurricanes or other unusually severe weather conditions, embargoes, war or other outbreak of hostilities, acts of terrorism, acts of God, acts of Buyer, market shortages, unavailability of Goods and/or Services or necessary materials, supplies or transportation services, any shift in raw material costs that prohibit or materially reduce the supply of Goods and/or Services or necessary materials or supplies from Seller's suppliers, inability to obtain shipping space, machinery breakdowns, delays of carriers or suppliers, governmental acts and regulations or other contingency the non-occurrence of which was a basic assumption on which the purchase order was accepted. In such a case, Seller shall have no obligation to purchase substitute goods or make other substitute arrangements in order to complete delivery to Buyer or to ship substitute goods from any other facility.

7. INSTALLMENTS.

Unless otherwise expressly agreed with Buyer by Seller in a separate written document, Seller shall have the right to make delivery in installments. All installments shall be separately invoiced and paid as billed without regard to subsequent deliveries. Failure of Buyer to pay for any installment when due shall excuse Seller from making further deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept and pay for remaining installments.

8. WARRANTY; DISCLAIMER.

Seller's warranty can be found at <https://www.crescor.com/warranty-information/>. The warranty in this Section 7 is expressly in lieu of all other warranties, expressed or implied, and of all other obligations or liabilities on Seller's part.

SELLER EXPRESSLY EXCLUDES AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BUYER ACKNOWLEDGES AND AGREES THAT BUYER TAKES SOLE RESPONSIBILITY FOR THE SELECTION OF AND SPECIFICATIONS FOR THE GOODS AND/OR SERVICES AND THEIR FITNESS FOR ANY PURPOSES INTENDED BY BUYER OR BUYER'S CUSTOMER(S).

9. LIMITATION OF SELLER'S LIABILITY.

IN NO EVENT SHALL SELLER'S LIABILITY, REGARDLESS OF THE CAUSE THEREOF, EXTEND BEYOND REPLACEMENT OR REPAIR OF GOODS AND/OR SERVICES OR GIVING BUYER CREDIT FOR THE PURCHASE PRICE OF GOODS AND/OR SERVICES SOLD OR PROVIDED, EITHER AT SELLER'S ELECTION, NOR SHALL SELLER HAVE ANY LIABILITY FOR LOSS OF TIME, COST OF LABOR EXPENDED, OR FOR ANY SEPARATE, SPECIAL, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL DAMAGES RESULTING FROM REJECTION OF FINISHED PARTS BY BUYER OR BUYER'S CUSTOMER(S).

10. INDEMNITY FOR BUYER SPECIFIED GOODS.

To the fullest extent permitted by law, Buyer shall indemnify, defend, and hold harmless Seller, its officers, directors, agents, and employees from and against any and all claims, demands, lawsuits, liabilities, losses, and expenses (including reasonable attorney's fees) arising out of or related to Goods manufactured by Seller in accordance with Buyer-provided drawings, specifications, or instructions that (a) Fail to be adequate for a particular purpose; (b) Do not comply with applicable product liability laws, rules, or regulations; (c) Infringe upon any third-party intellectual property rights, or (d) any use, application, or modification of the Goods after shipment by Seller to Buyer. Buyer shall bear all costs and expenses associated with defending against any such actual or threatened claims, including reasonable attorney fees incurred by Seller.

11. CLAIMS AGAINST COMMON CARRIERS.

Delivery of Goods and/or Services to a common carrier shall constitute delivery to Buyer and upon such delivery to a common carrier, all risk of damage shall be borne by Buyer, and Buyer shall be responsible for obtaining insurance, if desired, on the Goods and/or Services while in transport. If Buyer discovers a shortage in Goods delivered or if the Goods have been damaged in transit, Buyer must make a note to that effect upon the receipt Buyer gives the carrier or his, her or its agent. Also, Buyer must request that a similar notation be made on the freight bill. Damaged Goods must not be unloaded until inspected and such damage noted in writing. If there is justification for a claim, Buyer will file such promptly with the carrier. If the Goods and/or Services were shipped F.O.B. destination, Buyer must take the above steps, notify Seller immediately, and Seller will file a claim with the carrier. Failure to comply with this Section 12 shall be deemed an express acceptance of the Goods by Buyer in an "AS IS" condition with no right to credit, refund or any other remedy.

12. SHORTAGE CLAIMS.

Any claims for shortages or missing products must be reported to the Seller within 10 days of receipt of the Goods. Failure to notify the Seller within this time-frame shall constitute full acceptance of the shipment as received.

13. DEFAULT.

If any default is made in payment of amounts due for the sale of Goods or upon any other breach of these Terms and Conditions, as such may be subsequently modified by Seller from time to time without notice, Buyer agrees to pay Seller's reasonable costs of collection and/or compliance, including, but not limited to, reasonable attorneys' fees and costs, not to exceed the amount allowed by any applicable statute.

14. FREIGHT CHARGES.

If the agreed purchase price for Goods and/or Services was based on freight being allowed to destination (whether such freight charges were agreed to be included in the purchase price or to be charged as a separate line item), any change in applicable freight rates, including, but not limited to, any applicable fuel surcharges assessed by Seller upon prior notice to Buyer or without prior notice passed along by Seller to Buyer from a third party carrier, between the date of quotation and/or acceptance of purchase order and the time of shipment will result in a corresponding change in price. If the agreed purchase price was based on there being sufficient Goods and/or Services for a carload or truckload shipment and Buyer has ordered shipments to be made in less than carload or truckload amounts, then Buyer must pay the difference between carload/truckload and less than carload or truckload freight. If price is quoted F.O.B. trucks, it shall mean on the nearest accessible road or street to the building operation, and not unloaded from the trucks.

Except as otherwise provided herein, Seller shall not be responsible for freight, transportation, insurance, shipping, storage, handling, demurrage or similar charges. If such charges are by the terms of sale included (whether in the price itself or as a separate line item), any increase in rates, including, but not limited to, any increase in applicable fuel surcharges, whether assessed by Seller or passed along by Seller to Buyer from a third party carrier, becoming effective prior to the shipment date of the Goods and/or Services ordered, shall be the responsibility of Buyer.

15. TAXES.

Any applicable taxes or governmental charges on the production, sale, or shipment of goods—whether currently imposed by federal, state, or municipal authorities or enacted in the future—will be added to the purchase price and paid by the buyer. However, if the buyer provides the seller with a completed and signed tax exemption certificate for the relevant state(s), such charges may be waived.

16. TARIFFS AND GOVERNMENTAL SURCHARGES.

The pricing of goods under this Agreement is based on current tariff rates, duties, and other applicable governmental charges. If, at any time after an order is placed, a new or increased tariff, duty, tax, surcharge, or other governmental charge is imposed on the goods, their components, or raw materials, Seller agrees to hold the original pricing for 60 days from the order date.

After this 60-day period, Seller reserves the right to adjust pricing to reflect the incremental costs associated with such charges. Seller shall provide Buyer with written notice of any adjustments, including documentation supporting the additional costs. The revised pricing shall apply to all affected goods not yet shipped as of the effective date of the surcharge. Buyer agrees to pay such additional charges in accordance with the payment terms of this Agreement unless otherwise mutually agreed in writing.

This clause also applies to any legislative, regulatory, or trade agreement changes that materially impact Seller's cost of supplying the goods.

17. PURCHASE MONEY SECURITY INTEREST ("PMSI").

In accordance with the UCC, Buyer hereby grants, and Seller hereby retains, a PMSI in all Goods and/or Services sold by Seller to Buyer, along with any products into which such Goods and/or Services are converted or included by Buyer and the proceeds of sale or other transfer by Buyer of any and all said products or of the Goods and/or Services themselves, until such time as Seller is fully paid all amounts owing by Buyer for such Goods and/or Services, at which time said PMSI shall be immediately released. In the event Seller is not timely paid for any Goods and/or Services, in addition to any other rights to which Seller may be entitled hereunder or at law or equity, Seller shall have all rights granted under the UCC in regard to enforcement of its PMSI. Seller reserves the right to, and Buyer acknowledges and agrees that Seller may, notify any of Buyer's secured creditors of Seller's PMSI. Buyer also authorizes Seller to file with appropriate authorities financing statement(s) and/or other documents deemed necessary by Seller to give notice of Seller's PMSI. Buyer shall take all reasonable steps and cooperate with Seller in perfecting Seller's PMSI.

18. SERVICE AND REPLACEMENT PARTS.

For ten (10) years from the shipping date of any Goods, Seller will make available for purchase service and replacement parts for such Products. However, if any parts become obsolete due to factors beyond Seller's reasonable control—including, but not limited to, technological advancements or the unavailability of components on commercially reasonable terms—Seller shall not be obligated to provide such parts.

19. TERMINATION.

If, at any time, (i) Buyer fails to pay to Seller any amount in full when due, or otherwise fails to perform any other obligation owed to Seller; (ii) Buyer becomes insolvent or makes an assignment for the benefit of creditors or is adjudged bankrupt or a receiver or trustee of Buyer's property is appointed; or (iii) a levy, execution or attachment is made of any material portion of Buyer's property, Seller may, in its sole and absolute discretion, terminate the contract with Buyer for the purchase and sale of Goods and/or Services as created hereby and refuse to make further deliveries and/or repossess any Goods and/or Services for which Seller has not been paid in full (in cash or cleared funds) or continue to perform but refuse to make any shipments except upon the receipt of payment in full (in cash or cleared funds) prior to shipment. All amounts payable to Seller are due immediately upon termination pursuant to this Section 16 despite any other provision to the contrary herein.

20. CONTROLLING LAW.

These Terms and Conditions and the contract by and between Buyer and Seller for the purchase and sale of Goods and/or Services created hereunder is deemed made in Ohio and shall be governed as to validity, interpretation, construction, effect, and in all other respects, by the laws of the State of Ohio, without giving effect to the conflict of laws principles thereof. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms and Conditions or the sale of goods or services from Seller to Buyer.

21. WAIVER.

Neither any failure nor any delay on the part of Seller in exercising any rights hereunder shall operate as a waiver of any of Seller's rights. Any waiver by Seller of any breach of, or any default under, any provision of these Terms and Conditions by Buyer will not be deemed a waiver of any subsequent breach or default. All rights and remedies granted herein are in addition to all remedies available at law or in equity.

22. ASSIGNMENT.

Buyer may not assign its rights or obligations hereunder (whether voluntarily, involuntarily, by operation of law, transfer of majority or controlling interest or otherwise) without the prior written consent of Seller. These Terms and Conditions shall be binding upon Buyer and its successors and permitted assigns.

23. ACCEPTANCE.

Seller's provision of credit to Buyer, if any, acceptance of any purchase order and/or sale or provision of any Goods and/or Services to Buyer are all expressly conditioned upon Buyer's acceptance of these Terms and Conditions as then in effect. SELLER HEREBY REJECTS ANY TERMS OR CONDITIONS WHICH ATTEMPT TO ALTER, MODIFY OR CHANGE IN ANY WAY ANY PROVISION HEREOF, OR OTHERWISE ATTEMPT TO SUSPEND, CONTRADICT OR ADD TO ANY TERM OR CONDITION CONTAINED HEREIN, AND BUYER HEREBY WAIVES ALL SUCH TERMS OR CONDITIONS; THUS, SUCH SHALL NOT BE BINDING ON SELLER UNLESS EXPRESSLY AGREED TO IN A SEPARATE WRITTEN INSTRUMENT SIGNED BY SELLER'S AUTHORIZED REPRESENTATIVE. SELLER OBJECTS TO ANY DIFFERENT, INCONSISTENT, CONFLICTING, SUPPLEMENTAL OR ADDITIONAL TERMS OR CONDITIONS AND HEREBY REJECTS SUCH, WHETHER CONTAINED IN PREVIOUS OR SUBSEQUENT PROPOSALS OR COMMUNICATIONS (WHETHER ORAL OR WRITTEN) FROM OR WITH BUYER OR IMPLIED BY TRADE, CUSTOM, PRACTICE, COURSE OF DEALING OR USAGE IN THE TRADE. BUYER AND SELLER AGREE THAT THESE TERMS AND CONDITIONS, AS MAY BE SUBSEQUENTLY MODIFIED BY SELLER FROM TIME TO TIME, ARE ACCEPTED IN GOOD FAITH BY BOTH PARTIES AS THE COMPLETE AND FINAL EXPRESSION OF THE TERMS AND CONDITIONS GOVERNING TRANSACTIONS BETWEEN THEM, AND FURTHER AGREE THAT THERE SHALL BE NO "BATTLE OF THE FORMS" AS DESCRIBED IN SECTION 2-207 OF THE UNIFORM COMMERCIAL CODE.

24. SEVERABILITY.

If any provision of these Terms and Conditions shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms and Conditions, and the remaining Sections shall continue in full force and effect.

25. EXCLUSIVE AGREEMENT.

The terms contained herein for the purchase and sale of Goods and/or Services created hereby constitutes the entire agreement by and between Buyer and Seller with regard to the subject matter hereof and shall exclusively determine the rights and obligations of Buyer and Seller with regard to the purchase and sale of Goods and/or Services, any prior course of dealing, custom or usage of trade or course of performance notwithstanding, and may be modified by Seller from time to time without notice.