

Terms and Conditions of Sale

Introduction

These Terms and Conditions of Sale apply to any S.R. Smith, LLC product(s) purchased directly from S.R. Smith, LLC. By purchasing such product(s) Buyer agrees to these Terms and Conditions of Sale. As all statements herein are subject to change, without prior notice, check our website at www.srsmith.com for the latest Terms and Conditions of Sale. If you have questions about this policy, contact our customer service department at 800-824-4387.

Standard Terms and Conditions of Sale

Goods sold by S.R. Smith, LLC are expressly subject to and conditioned upon the terms and conditions set forth below. Any different or additional terms set forth by Buyer, whether in Buyer's purchase order or another communication, are expressly rejected and will not be binding on S.R. Smith, LLC unless agreed to in writing by an authorized officer of S.R. Smith, LLC.

Sales and payment terms: Possession of a price list or other pricing information does not constitute an offer or agreement to sell. All prices, quotations and billing originated by S.R. Smith, LLC are in U.S. Dollars. All taxes, duties or other fees are the responsibility of the Buyer. Payment is due in Net 30 days on approved credit. Until credit is approved, payment must be made with the order. Cash in Advance (CIA) or Credit Cards are acceptable. A service charge of 1.5% per month (Annual percentage rate of 18%) will be charged on all past due accounts.

Acceptable forms of payment: All remittances must be in a single payment in the full amount of the invoice (adjusted for any debit memos approved by S.R. Smith, LLC) and must be in accordance with the following requirements, (S.R. Smith, LLC Special Terms and Conditions excluded, ie. Early Buy):

- Wire or electronic fund transfer (referencing invoice number) and Buyer must be the originator of wire.
- Buyer company check (drawn on company account with company name).
- Third-party checks, bank checks, and foreign drafts will be accepted only if approved in advance in writing by the CFO of S.R. Smith, LLC and must have accompanying documentation that references invoices being paid.

Minimum orders: All orders less than \$50.00 will be charged a \$25.00 handling fee.

Security interest: Buyer hereby grants to S.R. Smith, LLC and S.R. Smith, LLC reserves, a purchase money security interest in each product sold by S.R. Smith, LLC to Buyer in the amount of its purchase price. Any such security interest shall be satisfied by payment in full of the invoiced amount. Buyer agrees to execute any and all such documents, including financing statements, as may be necessary for S.R. Smith, LLC to protect such security interest.

Prices: Products and services will be invoiced at prices in effect as of date of shipment (invoice date). Prices are not necessarily valid for other current and future sales. Any and all invoice errors must be disputed within 15 days of invoice date and are subject to correction by S.R. Smith, LLC, at its sole discretion. Prices exclude any present or future federal, state, provincial, local, or other governmental taxes, duties, and tariffs applicable to the sale, transportation, or use of products purchased, all of which taxes, duties, and tariffs shall be paid by Buyer. **In lieu of S.R. Smith, LLC collecting sales and use taxes from resellers, the Buyer or reseller must provide S.R. Smith, LLC with a current, valid sales and use tax exemption certificate for all states in which they do business.**

International sales are subject to applicable transportation and import duties, licenses, and fees, or as agreed to by S.R. Smith, LLC in Buyer's purchase order. All prices are FOB shipping point. S.R. Smith, LLC has established a Minimum Advertised Price (MAP) Policy on certain S.R. Smith, LLC products. The policy applies to all reseller and distributors of S.R. Smith, LLC products under applicable laws. For complete details about S.R. Smith, LLC's MAP Policy, please consult your S.R. Smith, LLC sales representative.

Change in Buyer's financial condition: Buyer agrees to notify S.R. Smith in writing of any material changes to its financial condition. S.R. Smith, LLC reserves the right to cancel an order or require full or partial payment if (1) solvency of Buyer is in question; (2) Buyer files for bankruptcy; (3) there is an appointment of trustee or receiver for Buyer. S.R. Smith, LLC also reserves the right to cancel Buyer's credit at any time.

Delivery, title, and risk of loss: All shipments will be FOB shipping point, and title and risk of loss will pass to Buyer when accepted for shipment by the freight company. On-time shipment is dependent upon Buyer promptly supplying all necessary documentation. S.R. Smith, LLC will ship via its preferred carrier. S.R. Smith, LLC reserves the right to make partial shipments unless specifically stated otherwise on Buyer's purchase order. S.R. Smith, LLC will determine the point of shipment. Products may ship from multiple locations.

Excusable delays: S.R. Smith, LLC shall use commercially reasonable efforts to deliver all products ordered by Buyer as soon as reasonably practical. In the event of interruption of any such delivery due to causes beyond the reasonable control of S.R. Smith, LLC, including but not limited to fire, labor disturbances, riots, accidents, or inability to obtain necessary materials or components, S.R. Smith, LLC shall have the right, in its sole discretion and upon oral or written notice to Buyer, to delay or terminate such delivery.

Freight damaged goods: Buyer must inspect all goods before signing the delivery receipt. If goods are obviously damaged, the Buyer should refuse the specified damaged products. If concealed loss or damage is discovered, report it promptly to the delivery carrier. Follow up with written

confirmation to the carrier. Hold shipping cartons and contents for inspection in as close to the same condition as they were when the loss or damage was discovered. If the report is not made within 7 days after delivery, the burden of proof will shift to the consignee (Buyer) and it will then be the responsibility of the Buyer/consignee to prove that the loss or damage did not occur after the delivery of shipment. All shipments include a consignee form which clearly states that the consignee must refuse shipment if it is damaged. The consignee has 7 days to file a claim with the carrier, and not S.R. Smith. After 7 days, the consignee accepts full responsibility for any loss or damage of the shipment.

Shortages: Buyer must notify S.R. Smith, LLC Customer Service Department of shortages within 7 business days. All claims for shortages shall be waived and released after 7 business days of receipt. At S.R. Smith, LLC's option, shipment will be fulfilled or a credit will be mailed to Buyer within 30 days of claim receipt.

Product Return Policy

S.R. Smith, LLC products (except custom products and discontinued items) held for less than ninety (90) days from the ship date may be returned for a credit of the purchase price minus a restocking fee of 25%. All returns must be authorized by the S.R. Smith, LLC warranty department and must have a corresponding RMA (Return Merchandise Authorization) number to qualify for this program. Products returned without the required elements referenced above will be rejected. The sender will be responsible for all freight costs associated with the return. All returns are subject to a restocking fee to cover the cost of returning product to saleable condition. Credit for the returned product, less restocking fee, will not be issued until the returned product(s) have been received, inspected and deemed suitable for resale. No returns will be accepted in the month of December or after the product has been in the possession of the customer for more than ninety (90) days.

Limitation of Liability

S.R. Smith, LLC's liability to Buyer on any claim of any kind, whether as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise, for any loss or damage arising out of, connected with, or resulting from the transaction, or from S.R. Smith, LLC's performance or breach thereof, or from the design, manufacture, sale, resale, installation, repair, operation, or use of any products furnished herein, shall in no event exceed the price paid by Buyer for the products which give rise to the claim. Any such liability shall terminate upon the expiration of the applicable warranty period, provided, however, that Buyer's rights to prove title in the products purchased from S.R. Smith, LLC shall not terminate. In no event, whether as a result of breach of contract, warranty, indemnity, tort (including negligence and strict liability), or otherwise, shall S.R. Smith, LLC or its suppliers be liable for any special, consequential, incidental, direct, indirect, punitive or exemplary damages, including but not limited to: loss of profit or revenues; loss of use of the products or any associated equipment; damage to associated equipment; cost of capital, substitute products, facilities, or

services; downtime costs; or claims of Buyer's customer for such damage.

Disclaimer: S.R. Smith, LLC does not make any claims or warranties of any kind regarding any pool alarm product's potential, ability, or effectiveness to detect, minimize, or in any way prevent death, personal injury, property damage, or loss of any kind whatsoever. S.R. Smith, LLC is not responsible for any death, personal injury, damage, loss, or theft related to the pool alarm product or its use or for any harm, whether physical or mental, related thereto. S.R. Smith, LLC does not represent that the pool alarm product may not be compromised and/or circumvented, or that the pool alarm product will prevent death, personal injury, bodily injury, and/or damage to property of Buyer. Buyer understands that a properly installed and maintained pool alarm product(s) may only reduce the risk of unauthorized objects or people in the area where the pool alarm product is installed but is not insurance or a guarantee that such events will not occur or that there will be no death, personal injury, and/or property damage as a result.

Design changes: S.R. Smith, LLC reserves the right to make changes in design of any of its products without incurring any obligation to notify Buyer or to make the same change to units previously purchased. Code compliance: S.R. Smith, LLC products are designed and manufactured in compliance with federal, national or international standards (i.e. ADA, CPSC, CE, etc.). State and Local code requirements may differ from these standards. It is the responsibility of the Buyer to ensure that the assembly, installation and use of S.R. Smith, LLC product(s) purchased meets any and all State and Local code requirements.

Export laws: Buyer agrees to comply with all applicable export laws, assurances, codes and license requirements, and controls of the United States and other applicable jurisdictions in connection with the use and resale of S.R. Smith products including Buyer's acceptance of responsibility for the payment of any relevant taxes or duties, etc.

Governing law: These Terms and Conditions of Sale shall be governed by and construed and enforced in accordance with the laws of the State of Oregon. The invalidity or unenforceability of any provision of these Terms and Conditions of Sale by a court of competent jurisdiction, shall not affect the validity of the remainder of these Terms and Conditions of Sale, which shall at all times remain in full force and effect. Any litigation with regard to these Terms and Conditions of Sale shall be brought in the state or federal courts serving Clackamas County in Oregon. Buyer hereby stipulates and consents to the personal jurisdiction of the state and federal courts serving Clackamas County in Oregon.