

Cooney Coil and Energy, Inc. - Terms and Conditions of Sale

- 1. Terms of Sale:** All orders must be in writing and are subject to acceptance by Cooney Coil and Energy Inc. ("Seller"). Purchase and sale of products by or through Seller are in all cases solely subject to the terms and conditions, including representations and warranties, contained or referenced herein or in the packaging, labeling and any written information, documentation or materials provided by Seller in connection with such products, as updated from time to time (together "Terms"), notwithstanding any additional or conflicting terms or conditions, whether oral, written, expressed or implied, in any document unless hereafter provided by Seller or approved in writing by the President or Director of Seller. For example, and without limiting the foregoing, any terms, conditions, representations or warranties contained in any purchase order or other form or document related to any order provided by any person or party except Seller, whether in addition to, or in conflict with, these Terms are hereby expressly objected to, rejected and disclaimed by Seller, unless Seller expressly references these Terms in a written document, accepted and signed by the President or Director, which provides these Terms are to be deemed amended, superseded or otherwise modified by such others, as applicable. In any event, acceptance of a shipment of Seller's products by or on behalf of Purchaser constitutes unconditional acceptance of these terms and conditions for all purposes and effects. These terms may be updated from time to time and will be deemed effective and binding on Seller and Purchaser 30 days after distribution to Purchasers or Publication on Seller's website at <https://cooneycoil.com>.
- 2. Price:** All quotations, unless otherwise specified, are subject to acceptance by Purchaser within thirty (30) days from date of quotation. Prices quoted by Seller on products manufactured by Seller are subject to reasonable change without notice. Prices quoted by Seller on products not manufactured by Seller are subject to adjustment by the same percentage of price changes as made effective by Seller's suppliers prior to the date of shipment.
- 3. Terms of Payment:** Terms of payment are cash due in full within thirty (30) days of invoice date unless otherwise agreed in writing by Seller. Written notice of any disputed charge must be received within ten (10) days following any invoice. After the foregoing period, all invoiced charges are deemed mutually agreed as payable to Seller. Credit card purchases, if accepted, will be subject to a minimum 4% processing fee to cover merchant service charges and reasonable additional administrative fees shall be charged by Seller for all dishonored payments or other charges imposed by applicable financial institutions. All past due accounts are subject to a monthly service charge of up to one and one-half percent (1.5%) (or the maximum rate permitted by applicable law, if less). All conditions to product shipment and deposits, if required by Seller, are subject to the discretion of Seller's credit determinations. payment. If shipments are delayed by Purchaser for any reason, payments shall become due from the date on which Seller notifies Purchaser that Seller is prepared to make shipment and storage thereafter shall be at Purchaser's risk and expense.
- 4. Delivery:** Shipment terms are F.O.B. Seller's shipment location unless otherwise agreed in writing. All products are shipped at Purchaser's risk and Seller shall face no liability for loss or damage in shipment occurring following receipt by Purchaser's carrier or designated shipping agent. Any claims for damage or shortage in transit when products are shipped by common carrier must be filed by Purchaser against the carrier. Claims for product shortages are deemed waived by Purchaser unless made by written notice to Seller within ten (10) days after receipt of products and accompanied by reference to Seller's bill of lading and factory order numbers, if applicable. Any product availability or delivery dates which may be specified are estimates only and are not guaranteed. Seller shall not be responsible for any delay or failure to meet a shipment date caused by circumstances beyond the reasonable control of Seller, including but not limited to, acts of God, riots, strikes, accidents, lack of transportation, or shortages of fuel, power, labor, materials or equipment.
- 5. Taxes:** Unless otherwise provided by law, Seller may require Purchaser to pay or to reimburse Seller for any tax (except Seller's income tax) which now or hereafter may be imposed by any taxing authority with respect to the products or the sale, purchase, manufacture, delivery or use thereof.
- 6. Cancellations:** Accepted orders are not subject to cancellation unless Seller consents and Seller is immediately reimbursed for all costs incurred by Seller in connection with or reliance of such order. Custom-made products, or products made to order by third-party manufacturers are not subject to cancellation following commencement of fabrication. In addition to any of Seller's determinable costs or other costs reasonably imposed by Seller in the case of an a Seller-approved cancellation request, Purchaser shall also promptly pay to Seller as fixed, agreed and liquidated damages, and not as a penalty, an additional sum equal to ten percent (10%) of such costs because Seller's actual administrative cost in the event of cancellation will be impossible to determine.

7. **WARRANTY & LIMITATIONS OF WARRANTY: THE FOLLOWING IS A GENERAL DESCRIPTION OF SELLER'S EXPRESS WARRANTY, WHICH GOVERNS AND SUPERSEDES THIS DESCRIPTION IN THE EVENT OF ANY CONFLICTS OR INCONSISTENCIES IN THEIR TERMS. SELLERS LIMITED WARRANTY, WHICH IS THE SOLE WARRANTY APPLICABLE TO SELLER, IS LOCATED IN FULL ON SELLER'S WEBSITE ([HTTPS://COONEYCOIL.COM](https://cooneycoil.com)). SUBJECT TO THE TERMS, LIMITATIONS, AND DISCLAIMER PROVISIONS OF SELLER'S LIMITED WARRANTY, SELLER WARRANTS TO THE ORIGINAL PURCHASER THAT PRODUCTS MANUFACTURED BY OR FOR SELLER AND SOLD UNDER SELLER'S LABEL ("SELLER PRODUCTS") SHALL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP UNDER NORMAL INSTALLATION, USE AND CARE. THIS WARRANTY AS TO MATERIAL AND WORKMANSHIP SHALL EXTEND FOR A PERIOD OF 12 MONTHS AFTER DATE OF SHIPMENT TO PURCHASER BY SELLER (THE "WARRANTY PERIOD").**
8. **BECAUSE SELLER SELLS SELLER PRODUCTS AND ALSO SERVES AS A RE-SELLER OF PRODUCTS MANUFACTURED BY THIRD-PARTIES AND SOLD UNDER THE LABELS OF THIRD-PARTIES (IN EACH CASE, A "THIRD-PARTY PRODUCT"), PURCHASERS OF THIRD-PARTY PRODUCTS ARE HEREBY NOTIFIED THAT SELLER PROVIDES NO SELLER WARRANTY (EXPRESS OR IMPLIED) FOR ANY THIRD-PARTY PRODUCTS IF ANY WARRANTY (EXPRESS OR IMPLIED) FOR SUCH THIRD-PARTY PRODUCT IS PROVIDED BY OR BINDING UPON SUCH THIRD PARTY. SELLER SHALL ONLY FACE LIABILITY OR OBLIGATION DURING THE WARRANTY PERIOD FOR SELLER PRODUCTS IN ACCORDANCE WITH SELLER'S LIMITED WARRANTY. SELLER SHALL HAVE NO LIABILITY OR OBLIGATION WHATSOEVER FOR DEFECTIVE OR NON-CONFORMING SELLER PRODUCTS AFTER EXPIRATION OF THE WARRANTY PERIOD OR FOR THIRD-PARTY PRODUCTS AT ANY TIME, REGARDLESS OF THE EXISTENCE OR NON-EXISTENCE OF OTHER WARRANTIES. THE SOLE LEGAL OR EQUITABLE RECOURSE FOR PURCHASERS OF THIRD-PARTY PRODUCTS SHALL BE AGAINST SUCH THIRD PARTIES AND SHALL BE GOVERNED BY ANY WARRANTIES OR OTHER TERMS OR CONDITIONS, IF ANY, PROVIDED BY OR BINDING UPON SUCH THIRD PARTY WITH RESPECT TO SUCH THIRD-PARTY PRODUCTS. IF PURCHASER NOTIFIES SELLER WITHIN THE WARRANTY PERIOD OF A DEFECTIVE SELLER PRODUCT, SELLER AT ITS OPTION WILL REPAIR OR REPLACE THE DEFECTIVE PRODUCT AT NO CHARGE TO PURCHASER. THIS LIMITED WARRANTY EXTENDS ONLY TO THE ORIGINAL PURCHASER AND THIS LIMITED WARRANTY DOES NOT COVER OR PROTECT AGAINST THE CONSEQUENCES OR EFFECTS OF IMPROPER HANDLING, STORAGE OR INSTALLATION, OR ANY ABUSE, MISUSE, NEGLIGENCE OR ALTERATION, OR USE OF THE PRODUCT OUTSIDE OF THE PURPOSES OR PARAMETERS FOR WHICH THE PRODUCT WAS DESIGNED. THE FOREGOING VOIDS SELLER'S WARRANTY IN ITS ENTIRETY. THIS LIMITED WARRANTY CONSTITUTES PURCHASER'S SOLE REMEDY. IT IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN NO EVENT AND UNDER NO CIRCUMSTANCE SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF THIS OR ANY OTHER WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. SELLER'S LIMITED WARRANTY OBLIGATIONS ARE LIMITED TO REPAIR OR REPLACEMENT OF DEFECTIVE PARTS ONLY. LABOR OR SERVICE COSTS, INCLUDING COST FOR REMOVING OR INSTALLING PARTS, AND ANY SHIPPING CHARGES ARE EXPRESSLY EXCLUDED FROM THIS LIMITED WARRANTY UNLESS OTHERWISE AGREED IN WRITING BY SELLER. LABOR OR SERVICE COSTS, INCLUDING COST FOR REMOVING OR INSTALLING PARTS, AND ANY SHIPPING CHARGES ARE EXPRESSLY EXCLUDED FROM THIS WARRANTY. NO PERSON (INCLUDING ANY AGENT OR SALESPERSON) HAS AUTHORITY TO EXPAND SELLER'S OBLIGATION BEYOND THE TERMS OF THIS WARRANTY, OR TO STATE THAT THE PERFORMANCE OF THE PRODUCT IS OTHER THAN THAT PUBLISHED BY SELLER.**
9. **Returned Products:** Products may not be returned except by written permission of an authorized official of Seller at King of Prussia, PA. Material returned without prior authorization by Seller shall be at Purchaser's risk and expense with no liability to or obligation of Seller.
10. **Product Changes:** Seller reserves the right to change specifications and/or designs without incurring any obligation to Purchaser.



20130 Valley Forge Circle
King of Prussia, Pa 19406
610-783-1136
www.cooneycoil.com

11. Patents: If any products shall be manufactured or sold by or on behalf of Seller to meet Purchaser's specifications or requirements and are not a part of Seller's standard product offering, or used by Purchaser for any purpose other than the purpose for which the products were designed, Purchaser agrees to indemnify and save harmless Seller from all damages, claims and demands for actual or alleged infringement of any United States or foreign patents because of manufacture, sale or use of such products.

12. Governing Law, etc.: These Terms shall be interpreted and enforced, and sale of products by Seller shall be governed in all respects, by the laws of the Commonwealth of Pennsylvania without giving effect to conflict of laws principles. In the event a court shall determine any provision hereof is unenforceable in accordance with its terms, such provision shall be deemed to be modified to the nearest meaning which the court shall find enforceable. Any conflicts or disputes between the parties in connection herewith shall be subject to the exclusive jurisdiction of the state and federal courts within Montgomery County in the Commonwealth of Pennsylvania and the parties submit to the jurisdiction of such courts. Seller shall be entitled to recover from Purchaser Seller's reasonable cost of enforcing these terms and conditions, including without limitation, any collection costs or attorney's fees and expenses incurred by Seller in the event of a default by Purchaser in making any payment due to Seller. These terms constitute the entire agreement between Seller and Purchaser.

Note: Please retain this these Terms and a current copy of our Expressed Limited Warranty for your records