

BOSTON CENTERLESS TERMS AND CONDITIONS OF SALE

Any offer to sell by Boston Centerless, Inc. ("BC") as well as any acceptance by Boston Centerless of an order from a buyer of BC's goods ("Purchaser") is expressly made conditional upon Purchaser's assent to these Terms and Conditions of Sale. Purchaser placing an order for any product or payment of any invoice will be conclusive evidence of such assent. The terms and conditions set forth herein, together with any additions or revisions agreed to in writing by an authorized officer of BC, will constitute the entire agreement and understanding of Boston Centerless and Purchaser. BC hereby objects to any term(s) or condition(s) set forth in any communication, printed or otherwise, from Purchaser to BC, or which otherwise would be deemed established by any course of dealing or custom in the trade, which are in any way different from, inconsistent with or in addition to the terms and conditions set forth herein. Such different, additional or inconsistent terms will not become a part of the contract between BC and Purchaser and will not be binding upon BC. To the extent that this document may constitute an offer, this offer expressly limits acceptance to the terms and conditions set forth herein. To the extent that this document may constitute an acceptance, this acceptance is expressly conditioned upon Purchaser's assent to the terms and conditions set forth herein. If Purchaser objects to any term or condition set forth herein, this objection must be in writing and received by Boston Centerless at: 11 Presidential Way, Woburn, MA 01801 prior to our delivery. Failure by BC to object to terms contained in any communication from Purchaser will not be a waiver of the terms set forth herein. Purchaser shall not condition any acceptance of delivery upon the abrogation or modification of any of the terms and conditions set forth herein, and any such condition shall be null and void.

ACCEPTANCE OF ORDERS. BC will have the right to accept or reject any order, and to accept orders in part, in its sole discretion. BC will not be deemed to have accepted any order (or any portion thereof) for products from Purchaser until such order shall have been approved by BC in writing and such products are delivered by BC to the carrier for delivery to Purchaser.

PRICE/DELIVERY TERMS. Unless otherwise stated on BC order acceptance or invoice, price and delivery terms are F.O.B. Origin. All prices are subject to change without notice, and orders will be billed at prices prevailing at the time BC accepts Purchaser's written order. Prices do not include any tax or other government charge or assessment upon the sale, shipment, production or use of the product ordered or sold hereunder. Purchaser will be solely responsible for, and will (upon request) pay to BC, any such tax, charge or assessment (other than any such tax on or measured by BC's income).

In the absence of specific shipping instructions, BC will ship according to its best judgment. BC will not assume the responsibility of any transportation charge. BC will use commercially reasonable efforts to meet delivery schedules requested by Purchaser; provided, however, BC will not assume any liability, consequential or otherwise, resulting from failure to deliver product in accordance with indicated delivery schedules.

PAYMENT. Unless otherwise agreed upon in writing signed by both parties or stated on BC's order acceptance or invoice, standard payment terms are one percent, ten days, net thirty days (1/10 net 30) from delivery. All overdue payments shall be subject to an interest charge calculated at the lower of eighteen percent (18%) per annum or the highest rate allowed by applicable law.

INSPECTION/ACCEPTANCE/RETURN. Purchaser must carefully examine and check all deliveries of product as they are received and is responsible for verifying contents against packing slips. Any alleged error, shortage, defect or nonconformity must be reported to BC within thirty (30) days after receipt of the product. Failure by Purchaser to comply with above constitutes a waiver of any claim or right against BC arising hereunder or by law with respect to any such error, shortage, defect, or nonconformity reasonably discoverable by such an examination and check, except and to the extent that such claims are valid under BC's warranty. No credit will be issued for any defect or nonconformity caused by the act or omission of Purchaser. No credit will be issued for any claimed shortage until it is verified by BC.

Any and all claims by Purchaser for damage or loss in transit will be made by Purchaser against the carrier.

BC will only accept returns for product that is shipped in error or deemed by BC to be defective. Purchaser will direct return requests to BC's Sales Department at 11 Presidential Way, Woburn, MA. 01801. All products returned must

include a BC Return Authorization number and must be returned to BC at: Boston Centerless, 11 Presidential Way, Woburn, MA. 01801. Any package returned without a BC Return Authorization number will be refused. The risk of loss and expenses of return in connection with any returned product will be borne by Purchaser.

Product returned with BC's authorization will be inspected and, if such inspection determines that the product is non-defective, BC may charge a reasonable restocking fee. BC will not assume responsibility for any additional handling of freight charges.

REPRESENTATIONS, WARRANTIES, AND COVENANTS. Purchaser represents, warrants and covenants that: (a) Purchaser is duly organized, validly existing, and in good standing under the laws of the state or country of Purchaser's origin; (b) Purchaser has all requisite power and authority to enter into this agreement and to carry out and perform its obligations under the terms of this agreement; (c) this document has been duly authorized, executed, and delivered by Purchaser and is a valid and binding obligation of Purchaser enforceable in accordance with its terms; (d) the execution, delivery, and performance of and compliance with this agreement does not and will not conflict with, or constitute a default under, or result in the creation of, any mortgage, pledge, lien, encumbrance or charge upon any of the properties or assets of Purchaser, nor result in any violation of (i) any term of Purchaser's governing documents, (ii) in any material respect, any term or provision of any mortgage, indenture, contract, agreement, instrument, judgment or decree, or (iii) to the best of Purchaser's knowledge, any order, status, law, rule or regulation applicable to Purchaser, the violation of which would have a material adverse effect on Purchaser's business or properties; and (e) all information provided by Purchaser to Boston Centerless to become an approved purchaser was and remains true and correct in all respects.

LIMITED WARRANTY. BC warrants that its product is free from defect in materials and workmanship at the time and place of delivery by Boston Centerless. THE WARRANTY DESCRIBED IN THIS PARAGRAPH SHALL BE IN LIEU OF, AND BC HEREBY DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. All warranty claims must be made in writing to Boston Centerless within thirty (30) days from the date of product receipt. Purchaser's remedies for warranty claims timely made are subject to BC's confirmation that the subject products are defective and are exclusively limited to replacement of, or credit for, any defective product (at BC's option). Such replacement or credit shall be made only if Purchaser follows the terms and conditions set forth herein concerning Inspection/Acceptance/Return and such credit is expressly limited to the price paid by Purchaser for the affected product as shown on the records of BC.

BC's warranty is made only to Purchaser. Purchaser shall make no warranty in its resale of BC's products more extensive than the warranty contained herein unless Purchaser clearly identifies that the warranty is the Purchaser's only and is not the responsibility of BC.

LIMITATION OF LIABILITY. BC ASSUMES NO LIABILITY OF ANY KIND WHATSOEVER EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS. IN NO EVENT WILL BOSTON CENTERLESS BE LIABLE TO PURCHASER OR ITS CUSTOMERS FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS WHETHER ARISING IN CONTRACT, IN TORT, UNDER WARRANTY OR OTHERWISE. Purchaser hereby agrees to indemnify, defend and hold harmless BC, its officers, directors, employees and agents, from and against any claims (including damages, losses and liability associated therewith, expenses of defending the claim and reasonable attorneys' fees) by any third party, which claim results from, arises out of, or is in any way connected to (a) any breach by Purchaser or any warranty, representation, or agreement contained herein, (b) the performance of Purchaser's rights, duties and obligations herein, including without limitation operation of Purchaser's retail location and/or web site, (c) the acts, omissions or negligence of Purchaser, (d) violation by Purchaser of the intellectual property rights of any person or entity, or (e) any injury (including death and violation of rights of privacy) to persons or damages to property caused directly or indirectly by the negligence or acts or omissions of Purchaser.

TITLE AND RISK OF LOSS. Title to all products will pass to Purchaser when delivered by BC to the carrier. Thereafter, except as otherwise specifically provided herein, all risk of loss and/or damage to any product ordered hereunder will be borne by Purchaser.

CHANGE IN OWNERSHIP OR LOCATION. In the event of a sale of, or a partial or total change of ownership in, Purchaser or of any of Purchaser's approved locations, or web sites (collectively, a "Material Change"), Purchaser will immediately notify BC. The new owner(s), additional location(s) and/or web site(s) must apply to BC for approval as an authorized dealer for each such location and/or web site(s). Purchaser will not be eligible to obtain BC products unless BC approves each such application in writing. In any event, upon a Material Change, BC shall have the right in its discretion to cancel or terminate immediately, in whole or in part, all agreements with or obligations to Purchaser, including without limitation shipment of products.

BOOKS AND RECORDS. Purchaser will maintain true, correct and complete books and records relating to its activities under these Terms and Conditions of Sale, including without limitation, a list of customers and product sale details. Purchaser will preserve such books and records for at least three (3) years and will permit BC to inspect and copy such books and records upon request.

BOSTON CENTERLESS TRADEMARKS. Purchaser will have no right to use any of BC's trademarks, trade names or service marks, including but not limited to the name and mark "BOSTON CENTERLESS," (collectively, the "Marks") except solely and directly in connection with the advertising of BC products and the sale of such products to consumers. Purchaser shall use the Marks only in the form and manner and with appropriate legends as prescribed from time to time by BC in accordance with customary trademark practices, and shall not use any other trademark or service mark in combination with the Marks without prior written approval of BC. Purchaser shall use the Marks in good taste, consistent with the product lines, and shall refrain from using the Marks in any manner that would bring the Marks or Boston Centerless into disrepute. BC expressly reserves the right to prohibit, restrict, or condition further in any manner, the use by Purchaser of any of the Marks. Purchaser's permitted use of the Marks shall inure to the benefit of BC. Purchaser will immediately notify BC if Purchaser learns of any actual or potential infringement or improper use of the Marks by any third party. BC will in its discretion determine what if any action is to be taken under such circumstances. Purchaser will provide Boston BC with reasonable assistance if requested to do so by BC and will take no action of its own without the prior written consent of BC.

MODIFICATIONS AND CANCELLATIONS. These Terms and Conditions of Sale may not be modified, terminated, or repudiated, in whole or in part, except in a writing executed by an authorized officer of BC. BC may treat any attempted modification, termination, or repudiation by Purchaser to which it does not assent in writing, as a breach of these Terms and Conditions of Sale. Purchaser may not modify or cancel orders once submitted.

REMEDIES FOR PURCHASER DEFAULT OR BREACH. Upon any breach by Purchaser, or failure by Purchaser to comply with any of these Terms and Conditions of Sale, or if Purchaser becomes unable to conduct its normal business operations (including inability to meet its obligations as they mature), or if Purchaser becomes the subject of any proceeding under any state or federal bankruptcy law or other law, or makes any assignment for the benefit of creditors, BC may immediately cancel or terminate any and all agreements with or obligations to Purchaser relating to sales of product, in whole or in part, which may result in non-shipment or cancellation of Purchaser's pending or future order(s) and/or termination of Purchaser's relationship with BC and to recover from Purchaser all of BC's damages (including without limitation special, indirect, consequential and incidental damages) resulting therefrom or arising in connection therewith. In addition, Purchaser acknowledges and agrees that its breach of any provision of this document may result in immediate and irreparable damage to BC in which event BC shall be entitled to equitable relief by way of temporary, preliminary and permanent injunctions, and such other and further relief as any court of competent jurisdiction may deem just and proper. All remedies in these Terms and Conditions of Sale will be cumulative and not exclusive and will be in addition to all other rights and remedies provided by applicable law, except as expressly excluded under the section "Limitation of Liability." The exercise or failure to exercise any remedy by BC will not preclude the exercise of the same or other remedies under these Terms and Conditions of Sale.

CONFIDENTIAL INFORMATION. Purchaser acknowledges that it may be entrusted with confidential information of BC, including without limitation, information relating to the business, operations, customers, pricing or underlying technology of BC. Purchaser shall take all commercially reasonable care to avoid disclosure or unauthorized use of the confidential information to any other person or entity. Purchaser shall not use the confidential information for purposes other than those necessary to further the purposes of this document. Purchaser shall not disclose the confidential information to third persons or outside parties without the prior written consent of BC. If Purchaser is required under applicable law, rule or regulation, or pursuant to the order of any court or governmental entity of competent jurisdiction to disclose confidential information in its possession, custody or control, Purchaser shall: (a) give at least thirty (30) days prior written notice of such disclosure to BC; (b) use its best efforts to limit such disclosure; and (c) make such disclosure only to the extent so required. Purchaser's obligations hereunder with respect to confidential information shall survive indefinitely.

APPLICABLE LAW/LIMITATIONS. These Terms and Conditions of Sale, and the transactions contemplated hereby, will be governed by, construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to its conflict of laws rules. Any legal action with respect to any such transaction, except claims BC may have for payment, must be commenced within one year and one day after the cause of action has accrued or will be deemed waived. Purchaser hereby consents to the exclusive jurisdiction of the state and federal courts located in the Commonwealth of Massachusetts for resolution of all claims, differences and disputes that the parties may have regarding this document.

FORCE MAJEURE. If performance hereunder by BC, including without limitation shipment of products, is delayed or prevented by any cause or causes beyond BC's control, BC shall be entitled to delay shipment or otherwise suspend its duty to perform for as long as the circumstances amounting to force majeure continue. Force majeure circumstances shall include without limitation adverse weather conditions, industrial action, war, fire, accidents, delay by supplier, difficulties in transport, breakdown in machinery or plant, shortage of materials or labor and other similar circumstances. In no event shall BC be liable for any cost, loss or damage arising out of delayed shipment or other suspension of its duty to perform under this clause.

MISCELLANEOUS. BC will not be deemed to have waived any provision of these Terms and Conditions of Sale or any breach by Purchaser of any provision of these Terms and Conditions of Sale, unless specifically set forth in writing and executed by an authorized officer of BC. No waiver by BC of any provision of these Terms and Conditions of Sale of any breach by Purchaser hereunder will constitute a waiver of such provision or breach on any other occasion. The invalidity or unenforceability (in whole or in part) of any provision, term, or condition hereof, will not affect in any way the validity and enforceability of the remainder of such provision, term or condition, or any other provision, term or condition. Nothing herein is intended to create and shall not be construed to create, a partnership, joint venture, franchise, or employment relationship between BC and Purchaser. Purchaser shall have no authority to, and shall not, bind BC to any obligations, except as may be expressly set forth herein, or as otherwise agreed to and approved in advance, in writing, by BC.