



General “Terms and Conditions”

Limited Warranty

SMS Silencers Inc. warrants its products to be free from defects in material and workmanship; excluding paint, weathering effects.

SMS limited warranty is for the period of one year from the manufacturing date or commissioning date to a maximum of 18 months.

Notice of warranty claim must be made in writing within such period.

If products prove to be defective, SMS Silencers Inc.’s sole obligation and Buyer’s exclusive remedy in connection with the products shall be limited, at SMS Silencers Inc.’s option, to either repair or replacement of products not conforming to this Warranty or credit to Buyer’s account in the invoiced amount of the nonconforming products.

SMS shall not be liable for any repairs, replacements or adjustments to the product or any costs of labour performed by Purchaser without SMS’s prior written approval. SMS’s warranty shall expire in the event the Product is modified, misused, neglected or operated other than for its intended purpose.

Repair or replacement of any part under this Limited Warranty shall not extend the duration of the warranty with respect to such repaired or replaced part beyond the stated warranty period.

SMS Silencers Inc. makes no other warranties concerning the product. No other warranties, whether expressed, implied, or statutory, such as warranties of merchantability or fitness for a particular purpose, shall apply.

Calculated noise level is based on free field conditions

No site conditions and no calculation safety factors are taken into consideration.

NO SOUND GUARANTEES ARE IMPLIED

Limitation of Liability

SMS Silencers Inc.'s liability on any claim of any kind, including claims based upon SMS Silencers Inc.'s negligence or strict liability, for any loss or damage arising out of, connected with, or resulting from the use of the products, shall in no case exceed the purchase price allocable to the products or part thereof which give rise to the claim.

In no event shall SMS Silencers Inc. be liable for any consequential or incidental damages.

This warranty "does not cover" shipping and freight cost, cosmetic damages in transit, damages due to receiving, installation, re-installation, fire, flood, or other acts of God, accident, misuse, abuse, repair or alteration by other than factory service, negligence, or improper or neglected maintenance.

Terms

All accounts with in house orders exceeding \$25,000.00 are subject to 30% deposit payment. Additional 30% payment is due upon shipment availability. Balance is due 30 days from the date of invoice.

Invoices are due and payable to SMS Net 30 days from the date of the invoice. A monthly service charge will be assessed on invoices over 30 days. All unpaid goods remain the property of SMS Silencers Inc.

Taxes

Applicable taxes will be added to all invoices and to be paid by the purchaser.

Returns & Cancellation

All SMS manufactured items are custom made to customer's request. No restocking is allowed and manufactured items are not returnable.

Purchaser may cancel prior to shipment, all or any portion of an order by giving SMS written notice. On receipt of the cancellation notice, work will be stopped as soon as possible. The purchaser will be invoiced for and will pay SMS the full price for all completed items. Incomplete items will be invoiced at full cost incurred by SMS plus an additional 35%.

Freight

All orders will be shipped FOB SMS plant in Brampton, ON Canada, freight collect. At the purchaser's request freight may be charged directly to the purchaser's account with the carrier and will be billed directly to the customer.

Title and risks of loss shall pass upon delivery to the carrier at the F.O.B. point. Buyer must make arrangements for the proper inspection of the equipment and subsequent claims (if any) for damage to the products against the shipping company. Seller is not responsible for the condition of the product once it leaves Seller's factory. Any shortage must be noted in detail on the Bill of Lading.

Delays

Shipment and delivery dates are estimated dates only. SMS shall not be liable for any consequential or incidental damages resulting from delayed shipments.

Claims

Claims for damage or shortage must be made in writing to SMS and the carrier within 72 hours after receipt of the product. Claims for loss or damage in transit must be filed by the purchaser with the transportation company. SMS will pack the products for shipment with reasonable care and using normal packing material. However, SMS assumes no responsibility for loss or damage to the products during shipment.

The responsibility for presenting and collecting claims and the responsibility for loss is with the purchaser.

Non-Conformance

Claims for product non-conformance must be made in writing to SMS within 72 hours after receipt of the product. Claims for non-conformance must be made prior to any installation of the product.

Entire Agreement

The provisions stipulated herein supersede any communication expressed or implied, written or verbal, between the parties thereto, and shall constitute the sole and entire agreement. No modification shall be made by either party, unless it is in writing and duly accepted by SMS and the purchaser. SMS's failure to object to provisions contained in the purchaser's purchase order or other communications shall not be deemed a waiver of the terms or conditions hereof nor acceptance of such provisions. The purchaser assumes all risks and liability for all loss, damage, or injury to person or property resulting from the use of the product. SMS assumes no liability for consequential, special, or incidental damages.

Terms and conditions of sale are subject to change without notice.