

Conditions of Trade

All goods remain the property of Walker Filtration, Inc. until paid for in full as per our standard conditions of trade. **Walker Filtration Inc.** 4748 Pacific Ave. Erie, PA 16506 **Tel** (814) 836-2900 **fax** (814) 836-7921 **e-mail** usa@walkerfiltration.com **web** walkerfiltration.com

1. Definitions
 - 1.1 "Vendor" shall mean Walker Filtration, Inc. whose registered office is situated at 4748 Pacific Ave Erie, PA 16506
 - 1.2 "Goods" shall mean all or any of the goods or materials which from time to time the Vendor contracts to supply.
 - 1.3 "Services" shall mean all or any of the services which from time to time the Vendor contracts to supply.
 - 1.4 "Purchaser" means the person, firm, company or other corporation who places an order with the Vendor or otherwise contracts with the Vendor for any of the Goods or services.
 - 1.5 "Insolvency Event" shall mean all or any of the events that any distress or execution shall be levied upon any goods of the Purchaser or if the Purchaser offers to make any arrangement with its creditors or commits any act of bankruptcy or if a petition in bankruptcy be presented against the Purchaser or if any resolution or petition to wind up the Purchaser (other than for the purpose of amalgamation or reconstruction without insolvency) shall be presented or passed or if any petition for an administration order is presented or if a receiver or manager shall be appointed over the whole or any part of the Purchaser's business or if the Vendor has any genuine reasons to believe the Purchaser is insolvent.
2. Application
 - 2.1 These conditions shall apply to all contracts, whether written, oral or implied for the supply of Goods or Services.
 - 2.2 Any conditions of purchase or other terms provided by the Purchaser shall be of no effect whatsoever nor shall any variation or alteration of these conditions be of any effect unless made in writing and signed by or on behalf of the Vendor by a duly authorized signatory of the Vendor.
 - 2.3 No binding contract shall be created by the placing of an order by the Purchaser unless and until the Vendor's written acknowledgement of the order shall have been posted or delivered which acknowledgement will be deemed to repeat these conditions. Alternatively, in the event that no such acknowledgement is sent, at the time of acceptance of any order for the Goods or Services by the Vendor a binding contract will be created subject to these conditions.
3. Quotations: Any quotation in whatever form given to the Purchaser is given subject to these conditions as an invitation to treat and does not constitute an offer to sell. The Vendor will not accept any obligation in respect of any quotation dated over thirty (30) days unless otherwise indicated in writing.
4. Prices
 - 4.1 Subject to anything to the contrary contained in any quotation issued by the Vendor, prices for the Goods or Services are as referred to in the Vendor's price list current at the time of delivery and unless otherwise stated, are exclusive of sales tax and / or freight.
 - 4.2 The Purchaser shall have no right of set-off whether statutory or otherwise.
 - 4.3 Unless otherwise expressly stated in writing by the Vendor, prices are exclusive of carriage, handling, packaging and any insurance charges.
 - 4.4 Unless otherwise expressly stated in writing by the Vendor, all prices payable must be settled in the currency of the American Dollar but if the Vendor agrees to accept foreign currency and does not specify an exchange rate the exchange rate will be that of the Federal Reserve Bank at the close of business on the day preceding the day on which the Vendor accepts the Purchaser's order.
5. Payment and Default by Purchaser
 - 5.1 Subject to sub-clauses 5.2 and 5.3, the Purchaser shall pay the Vendor in full for the Goods or Services (as the case may be) within thirty (30) days of the date of the invoice.
 - 5.2 In the event that the Purchaser fails to make payment by the due date or otherwise commits a breach of these conditions or if an Insolvency Event occurs, the Vendor may in its absolute discretion and without prejudice to any other rights which it may have:-
 - 5.2.1 Suspend all future deliveries or supplies to the Purchaser under the contract in question or under any other contracts and/or terminate all or any part of such contract(s) without liability upon its part.
 - 5.2.2 Require payment in advance for any future deliveries.
 - 5.2.3 (in the case of non-payment on or before the due date or on demand as mentioned in sub-clause 5.3 below) Charge interest on the amount due on a day-to-day basis at the rate of 2% per month compounded annually from the time of delivery or date of invoice whichever is the earlier until the date of actual payment, whether before or after judgment.
 - 5.3 Without prejudice to any other rights the Vendor may have by virtue of paragraph 5.2 the Vendor may demand immediate payment of all sums whether or not due in the event that the Purchaser is the subject of an Insolvency Event.
6. Delivery and Collection
 - 6.1 Subject to the provision of clauses 4.3 and 7; the Vendor may arrange delivery to the Purchaser's premises at the Purchaser's request. In all other circumstances collection or delivery of Goods or goods upon which Services have been rendered will be made at the Vendor's premises at which the Goods are made or Services rendered.
 - 6.2 When delivery or collection takes place at the Purchaser's premises it will be the Purchaser's responsibility to ensure delivery or collection can take place at the time and place specified or otherwise agreed. The Purchaser shall indemnify the Vendor against any loss or expense incurred as a result of a breach of these obligations. Without prejudice to the foregoing, if the Vendor or its agents or employees agree to assist in the loading or unloading (as the case may be) then the Vendor will not be liable for any loss or damage howsoever arising through any act, omission or negligence of any of its agents or employees.
 - 6.3 Although given in good faith delivery times for the supply of the Goods or the Services specified by the Vendor in its quotation or otherwise are intended as estimates only and are not therefore to be treated as being of the essence of the contract or binding on the Vendor. The Vendor will not be liable to the Purchaser for any loss or damage (direct or indirect) occasioned by its failure (whether as a result of its negligence or otherwise) to deliver the Goods or the Services by the date or within the time stated and in no case shall delay be a ground for rejecting the same.
 - 6.4 The right to deliver the Goods or Services in parts is expressly reserved by the Vendor and these conditions shall apply to any such part or parts mutatis mutandis.
 - 6.5 In the case of the alleged shortage in or damage to or defect in the Goods or goods upon which Services have been rendered:-
 - 6.5.1 The Purchaser agrees to notify the Vendor in writing of any claim in respect thereof within seven days of its receipt by the Purchaser in the case of shortage or damage or in the case of a defect within twenty eight days of the defect becoming apparent together with written evidence in support of such claim in relation to the date of receipt; and
 - 6.5.2 The Purchaser agrees to allow the Vendor a reasonable opportunity to inspect any such goods before any use is made of them or alteration is made thereto and to keep them in good order and store them so as to prevent any damage arising.



- 6.5.3 The Purchaser shall have no claim against the Vendor for shortage, damage or defects unless the requirements as to notification set out in this sub-clause 6.5.1, .2 and .3 are strictly complied with by the Purchaser.
- 6.6 In the event that the Purchaser is responsible for collecting the Goods or any goods upon which Services have been rendered and such collection does not occur within seven days of the Purchaser having been informed that such goods are ready for collection, the Vendor may charge the Purchaser for storage of any such goods until collection occurs in addition to the price for the Goods or Services.
7. Risk
- 7.1 The liability for Goods or goods upon which Services have been rendered shall pass to the Purchaser at the time they are collected at the Vendor's works prior to loading or where the Vendor arranges delivery liability shall pass when the carrier collects the Goods or goods upon which Services have been rendered at the Vendor's premises prior to loading.
- 7.2 Without prejudice to the provisions of clause 7.1, in the event of any loss or damage to the Goods or goods upon which services have been rendered whilst in the possession of the carrier, the Vendor shall take all reasonable steps, at the Purchaser's expense, to assist the Purchaser in pursuing any available claim against the carrier.
8. Cancellation: The Vendor shall be under no obligation whatsoever to accept any cancellation of an order once accepted. However, if the Vendor at its complete discretion agrees to accept any such cancellation or return, it may levy such charges as it, in its absolute discretion, sees fit.
9. Title
- 9.1 The provisions of this clause shall apply until such time as the price of the Goods and/or Services has been paid in full or until payment has been made of all other sums owing to the Vendor at the date of this contract on any account whatsoever or howsoever arising whichever occurrence shall be the later.
- 9.2 The property in the Goods shall remain in the Vendor and the Purchaser shall hold the Goods as fiduciary agent and bailee for the Vendor.
- 9.3 The Purchaser shall store the Goods separately from any other goods in such a manner that they can be identified as the property of the Vendor and shall ensure that the Goods are not incorporated in or mixed in or used as part of other goods.
- 9.4 Subject to sub-clauses 9.3, 9.5 and 9.6, the Purchaser shall be at liberty to sell or use the Goods in the ordinary course of its business and the Vendor grants the Purchaser a license for this purpose.
- 9.5 The purchaser shall account to the Vendor for the proceeds of any sale of the Goods and until such account is made, the Purchaser will hold the proceeds of sale upon trust for the Vendor. The Purchaser shall ensure any monies received for the Goods are not mixed with other monies or paid into any overdrawn bank account.
- 9.6 The power of sale given to the Purchaser by sub-clause 9.4 above will automatically terminate if the Purchaser is the subject of an Insolvency Event. An Insolvency Event shall be deemed to be a fundamental breach of contract. Further, the Vendor may terminate the said power of sale at any time by written notice if the Purchaser is in default of payment of any sum due to the Vendor.
- 9.7 At any time after termination pursuant to 9.6 above the Vendor may repossess the Goods and the Purchaser hereby grants to the Vendor an irrevocable license to enter upon any premises of the Purchaser for the purpose of so doing.
- 9.8 The Vendor shall be entitled to appropriate any payment made by the Purchase in settlement of such invoices or accounts as the Vendor in its absolute discretion thinks fit notwithstanding any purposed appropriate to the contrary by the Purchaser.
- 9.9 Each of the foregoing sub-clauses shall, so far as the context permits, be read and construed independently of the other sub-clauses so that if one or more of them shall be held to be invalid this shall not affect the validity of the remaining sub-clause.
10. Guarantee
- 10.1 Subject to the limitations contained in clause 10.3 and 11 below, the Vendor agrees that, any defects which under proper use appear in the Goods within a period of 12 months of the Goods having been first used or within 15 months of delivery whichever shall be the sooner and are due to faulty materials or workmanship, shall be made good by the Vendor either by repair or at the Vendor's option by replacement provided that the Purchaser complies with its obligations under clause 6.5 above.
- 10.2 Subject to the limitations which appear in clause 10.3 and 11 below, the Vendor agrees that, any defects which under proper use appear in goods upon which Services have been rendered within a period of 12 months of delivery and are due to faulty workmanship, shall be made good by the Vendor by the provision of further Services on the goods originally supplied by the Purchaser provided the Purchaser complies with its obligations under clause 6.5 herein.
- 10.3 The Purchaser should note that the Goods contain disposable or replaceable parts including filter elements which will need replacing from time to time according to use. The life of any such parts and in particular any filter elements will depend on a large number of variable conditions and no guarantee can be given for their life.
11. Exclusion of Liability
- 11.1 Except in the case of death or personal injury the Vendor's total liability to the Purchaser whether for negligence, breach of contract, misrepresentation or otherwise, shall in no circumstances exceed the cost of the defective, damaged or undelivered Goods or Services determined by the Vendor's net invoice price to the Purchaser.
- 11.2 Save as mentioned in Clause 10 and sub-clauses 11.1 and 11.3 hereof or prescribed by statute, the Vendor shall be under no liability to the Purchaser whatsoever for any defect in, failure of, or unsuitability for any purpose of the Goods or the Services or any part thereof whether the same be due to the act or omission, negligence or default of the Vendor or its servants or agents, and all conditions, warranties and other terms whether expressed or implied, statutory or otherwise, inconsistent with the provisions of this condition are hereby expressly excluded provided that nothing herein contained shall be construed as excluding or restricting the liability of the Vendor for death or personal injury resulting from the negligence of the Vendor.
- 11.3 Where the Purchaser deals as a consumer within the meaning of that expression as defined in Section 12 of the Unfair Contract Terms Act 1977 none of the statutory rights of the Purchaser are excluded by these terms and conditions and the statutory rights of the Purchaser in the case of a consumer shall remain in full force and effect and are in no way affected by any of the provisions of these terms and conditions.
- 11.4 In no circumstances, shall the Vendor be liable for any economic loss or damage suffered by the Purchaser howsoever caused and whether foreseeable or contemplable which, for the avoidance of doubt, shall be taken as including any loss of profits, business revenue, goodwill, anticipated saving, overhead and labor costs.
- 11.5 The Vendor's prices are determined on the basis of the limits of liability set out in this clause. In the event that the Purchaser requires the Vendor to accept a higher limit of liability, the Purchaser shall give written notice of this whereupon the Vendor will accept such liability providing insurance can be obtained against that higher level of liability and providing the cost of such insurance is borne by the Purchaser.
- 11.6 Each of the foregoing sub-clauses shall, so far as the context permits, be read and construed independently of the other sub-clauses so that if one or more of them shall be held to be invalid this shall not affect the validity of the remaining sub-clauses.
12. Instructions: Any Goods disposed of by the Vendor are complete with instructions for installation and use. The Purchaser agrees that the Goods will be installed and used in accordance with those instructions by suitably trained personnel. The Vendor will assist the Purchaser or any ultimate user with further information relating to installation or use upon request.

13. **Vendor's Indemnity:** Where the Purchaser shall supply goods or materials to the Vendor in connection with the supply of Services and any defect or hazard appears in the goods or materials supplied then the Purchaser shall indemnify and keep indemnified the Vendor from and against any and all loss, damage or liability suffered and legal fees and costs incurred by the Vendor as a result of the defect unless the Purchaser can prove that the defect did not arise from any cause within his control.
14. **Patent Infringement:** The Purchaser warrants that any instructions, plans or designs furnished or given by it shall not be such as will cause the Vendor to infringe any letters patent, copyright, registered design, right of confidence or trade mark in execution of the Purchaser's order and agrees to indemnify the Vendor against all claims, costs or other expenses incurred by the Vendor in respect thereof.
15. **General Lien**
- 15.1 The Vendor shall have a general lien over all goods or materials of the Purchaser in its possession for all monies due to the Vendor or liabilities incurred by the Vendor upon whatever account and shall also be entitled to apply any monies of the Purchaser held by it under one contract to the discharge of monies due to it under any other contract. The Vendor shall be entitled to charge rent and other expenses incurred during all periods in which a lien on goods or materials is being asserted. Further, if the Vendor exercises its right of lien over any goods or materials then if monies due are not paid within one month after it has first retained such goods or if the Purchaser is the subject of an Insolvency event, the Vendor shall have power, without giving notice, to sell the whole or part of such goods or materials to cover the monies due and expenses of sale.
- 15.2 For the avoidance of doubt, it is hereby declared that nothing in this clause shall affect the rights given to the Vendor by Sections 38-48 of the Sale of Goods Act 1979.
16. **Catalogues, Advertisements and Drawings**
- 16.1 While the Vendor believes that all specifications, illustrations, performance data and other information contained in any drawings, catalogues, advertisements of other documents supplied by the Vendor are as accurate as reasonably possible, they do not constitute a description of the Goods and shall not be taken to be representations made by the Vendor and are not warranted to be accurate.
- 16.2 The Purchaser shall not copy or otherwise reproduce any drawing, advertisements, catalogues or other documents supplied by the Vendor without the Vendor's prior written consent.
17. **Intellectual Property:** All intellectual property rights in the Goods or any drawings, specifications, designs prepared by the Vendor shall at all times remain vested in the Vendor as the Vendor's absolute property and the Purchaser shall not reproduce or use all or any of them without the Vendor's prior written consent.
18. **Alterations and Modifications:** The Vendor may carry out from time to time and without notice to the Purchaser, alterations or improvements in construction or design, specification, materials or manner of manufacture of the Goods.
19. **Force Majeure:** Without prejudice to the generality of any of the foregoing conditions, the Vendor shall not be liable for any loss or damage caused by the non-performance or delay in the performance of any of its obligations here-under if the same is occasioned by any cause whatsoever which is beyond the Vendor's control, including but not limited to Acts of God, war, civil disturbance, requisitioning, import or export regulations, strike, lock-out or trade dispute, difficulties in obtaining materials, breakdown of machinery, fire or accident. Should any such event occur the Vendor may cancel or suspend this contract without incurring any liability for any loss or damage thereby occasioned.
20. **Frustration --** If any contract to which these conditions apply is frustrated and/or the Goods in respect thereof cannot be delivered for any cause whatsoever, it is expressly agreed that:
 - 20.1 If any sum has been paid on account to the Vendor by the Purchaser and is repayable by operation of law the Vendor shall be entitled to deduct there from all expenses incurred in connection with the said contract; and
 - 20.2 If no sum has been paid on account the Purchaser shall be bound to pay the Vendor all expenses so incurred in connection with the said contract.
21. **Notices:** Any notice required to be served pursuant to these conditions shall be served as follows:-
 - 21.1 Notices to the Vendor: to its offices, 4748 Pacific Ave, Erie, PA 16506 or such other address as it may from time to time notify to the Purchaser;
 - 21.2 Notices to the Purchaser: to such address as the Purchaser may notify to the Vendor or, in default of notification, to such address as appears on any order by the Purchaser, or if the Purchaser is a company, at the Vendor's option to the Purchaser's registered office.
22. **Dispute Resolution and Governing Law:** Any controversy or claim arising out of or relating to the product and/or this agreement will be subject to arbitration administered by the American Arbitration Association under its commercial arbitration rules. The award and any findings of the arbitrator must be filed within thirty (30) days of the final arbitration hearing. Judgment on any award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Nothing contained in this section will limit either party's ability to seek injunctive relief in any court. The parties will arbitrate disputes in confidence. This agreement will be governed by the Substantive Laws of the Commonwealth of Pennsylvania. The choice of law rules of any jurisdiction and the United Nations convention on contracts for the international sale of goods will not apply. Any arbitration will take place in Erie, Pennsylvania or a place mutually agreed upon by the parties.
23. All Freight Terms in Accordance with INCOTERMS® Rules 2010