



# Winkle Electric Company Policy

## Terms and Conditions of Sale

- 1. General** All sales of goods from The Winkle Electric Co., Inc. (“Winkle”) are governed exclusively by the terms and conditions set forth below. WINKLE EXPRESSLY REJECTS ALL DIFFERENT TERMS AND CONDITIONS that may be set forth in a purchaser's purchase order or other documentation of any type that are an addition to, or inconsistent with the terms and conditions of sale set forth herein. All sales are expressly conditioned on purchaser's acceptance of the following terms and conditions as the sole writing governing all sales of goods from Winkle, and purchasers agree that the placing of a purchase order with Winkle indicates acceptance by the purchaser of these terms and conditions of sale.
- 2. Payment** Payment is due from buyer within thirty (30) days from the date of invoice. The parties agree that all payments still owing after the due date will bear interest at the rate of 1.5% per month. Winkle reserves the right to equitably adjust the price for ordered goods above the price quoted due to the cost of compliance with federal, state and local laws or regulations.
- 3. Disclaimer of Warranties** Winkle has made no affirmation of fact and has made no promise relating to the goods being sold that has become any basis of the bargain made or that has created or amounted to an express warranty that the goods would conform to any affirmation or promise. No description of the goods being sold has been made part of the basis of the bargain or has created or amounted to an express warranty that the goods would conform to any description. No sample or model has been made part of the basis of the bargain or has created or amounted to an express warranty that the whole of the goods would conform to any sample or model. WINKLE DISCLAIMS ANY WARRANTY OF MERCHANTABILITY WITH RESPECT TO THE GOODS BEING SOLD. WINKLE DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE GOODS BEING SOLD. THE ONLY WARRANTY AVAILABLE TO BUYER WILL BE THE WARRANTY OF THE ORIGINAL MANUFACTURER.
- 4. Disclaimer and Limitation of Liability** To the fullest extent permitted by law, Winkle will not be liable for any business interruption or loss of profit, revenue, materials, anticipated savings, data, contract, good will or the like, whether direct or indirect in nature, or for any other form of incidental, indirect or consequential damages of any kind. Winkle's maximum liability with regard to all other claims and liabilities including obligations under any indemnity, whether or not insured, will not exceed the cost of the goods giving rise to the claim or liability. Winkle disclaims all liability relative to gratuitous information or assistance provided by, but not required of Winkle hereunder. Any action against Winkle must be brought within eighteen (18) months after the cause of action accrues. The disclaimers and limitations of liability herein will apply regardless of any other contrary provision hereof and regardless of the form of action, whether in contract, tort (including negligence and strict liability) or otherwise. Each provision of



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damages is severable and independent of any other provision and is to be enforced as such.

5. **Shipment of Goods and Risk of Loss** All shipment dates are approximate and are based on prompt receipt of all necessary information from buyer. Winkle cannot be held responsible for delays in shipping outside its control and Winkle will not be liable for not filling any order or portion thereof due to such delays. In the event of shipping delays, there shall be no termination of this agreement and the date of delivery shall be extended for a period equal to the time lost by reason of the delay. Unless otherwise specified by Winkle, all delivery will be made and title will pass F.O.B. point of shipment to buyer. Winkle shall maintain a security interest in its products and reserves the right to repossess any products for which it has not been paid. This includes products/items already shipped to an end customer. Winkle reserves the right to require financing statements (UCC-1) to be executed by buyer on orders exceeding \$30,000.00. All goods are delivered to the carrier in good condition. Winkle's liability for the condition of the goods ends at that time. If a shipment of goods is received damaged, buyer must accept the shipment and immediately contact the freight carrier for damage inspection. If concealed damage is found, buyer shall immediately notify the carrier that delivered the goods and request an inspection. If a shipment is not delivered by the carrier to buyer in accordance with the quantity of cartons or packages as shown on the bill of lading and/or freight bill, buyer should not accept the shipment until such shortages are noted on the bill of lading or freight bill. Loss or disputes with carriers regarding damaged goods does not relieve buyer's obligation to pay Winkle the full invoice price pursuant to the term set forth above. Any claims against Winkle for shortages, errors and/or nonconforming goods shall be made by buyer within ten (10) days after delivery and failure to make such a claim shall be considered an indication of buyer's acceptance thus waiving claims for shortages, errors, or other claims.
6. **Governing Law** This agreement shall be governed in accordance with the laws of Ohio. All legal actions or suits in equity or other proceedings of a judicial nature for breach of this contract or enforcement of its terms shall be filed in the court of competent jurisdiction in Mahoning County, Ohio, the county and state in which this agreement is made and each party waives its right to any change of venue.
7. **Integration and Severability** This agreement and/or order supersedes and cancels all prior communication between Winkle and the purchaser except as specifically set forth on the face of this order. No other terms and conditions except those stated herein shall be binding unless made in writing and signed by an authorized representative of Winkle. In the event these terms and conditions conflict with those of the purchaser, Winkle's terms and conditions shall control. If any provision of this contract is deemed invalid, illegal, or otherwise unenforceable, such determination shall not affect any other provision of this contract and this agreement shall be interpreted and applied as if the invalid, illegal, or unenforceable provision was not a part of this agreement.