

## TERMS & CONDITIONS

1. **Payments:** All payments are to be made to MARIK INDUSTRIES, INC. in U.S. Dollars at 575 West Manville Street, Rancho Dominguez, CA 90220 in immediately available funds, U.S. dollars only.
2. **Title:** Customer acknowledges and agrees that Customer does not acquire any right to sell, assign or dispose of merchandise until it is entirely paid for and that in the case of default of payment, MARIK, its agents and assigns, are hereby authorized to take possession of and remove sold merchandise, on Customer's business premises or elsewhere, without demand or notice of any kind.
3. **Venue and Jurisdiction:** Customer agrees that any suit, action or proceeding arising out of or relating to the interpretation, performance or breach of these Terms and Conditions shall be instituted in the Municipal or Superior Court of the State of California located in Los Angeles County, and Customer irrevocably submits to the jurisdiction of those courts and waives any and all objections to jurisdiction or venue that it may have under the laws of the State of California or otherwise in those courts in any suit, action or proceeding.
4. **Governing Law:** The validity, construction and performance of these Terms and Conditions shall be governed by the laws, without regard to the laws as to choice or conflict of laws, of the State of California.
5. **Remedies:** MARIK and Customer shall have all remedies afforded to each by the Uniform Commercial Code.
6. **Amendment and Waiver:** These terms and Conditions may be amended, modified or supplemented only by a writing executed by MARIK. MARIK may in writing waive any provision of these Terms and Conditions to the extent such provisions is for the benefit of the waiving party. No action taken by MARIK shall be deemed to constitute a waiver by MARIK of any provisions hereof. No waiver by MARIK of any provision hereof shall be construed as a waiver of any subsequent or different breach, and no forbearance by MARIK to seek a remedy for noncompliance or breach shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.
7. **Attorney's Fees and Costs:** Customer agrees to pay all attorneys' fees and all other costs and out-of-pocket expenses which may be incurred by MARIK in the interpretation and/or enforcement hereof, whether or not suit is filed.
8. **Orders and Acceptance.** All orders from Customer shall be subject to written confirmation by Mariak. Mariak agrees that all purchase orders shall be expeditiously handled, and Mariak shall use its good faith best efforts to handle the volume of orders that customer may submit. Customer acknowledges, however, that all delivery estimates are estimates only and no guarantees can be given that any Customer order shall be delivered by a particular date and time, unless the parties have agreed thereto in a separate writing signed by Mariak.
9. **Limitations on Liability.** Mariak shall not be liable for indirect, special, incidental or consequential damages (including, but not limited to, damages for loss of business, loss of profits or investment) whether based on breach of contract, tort (including negligence), product liability or otherwise, even if Mariak or its representatives have been advised of the possibility of such damages, and even if the remedy set forth herein is found to have failed of its essential purpose. The limitations of damages set forth herein are fundamental elements of the basis of the bargain between Mariak and Customer. Mariak would not have been able to provide its goods and services without such limitations. The liability of Mariak shall be limited to the amount paid by customer hereunder.
10. **Late Payments.** Past due amounts are subject to late payment service charges of one and one half percent (1 ½%) per month, or the maximum rate allowed by law, whichever is greater.
11. **Returns.** All returns and credits must be preauthorized, in writing, and include a Return Goods Authorization number. No returned goods will be accepted without such authorization, and freight charges must be prepaid.
12. **Limited Warranty.** All Mariak products recovered by Mariak's Limited Warranty, the terms of which may be found on Mariak's website [www.mariak.com](http://www.mariak.com)
13. **Entire Agreement.** These terms and conditions constitute the entire agreement between Mariak and Customer. No waivers or Modifications shall be valid and must be in writing, signed by both parties hereto. This agreement shall apply and inure to the benefit of, and be binding upon, the heirs, executors, administrators, successors and assigns of the parties.

**Pricing:** All prices are subject to change without notice.

**Re-Stocking Fee:** A 25% re-stocking fee will be applied to all pre-authorized and approved product returns.

**General Terms:** Strictly 30-day for open accounts with an established line of credit or status stated on invoice. A service charge of 1.5% per month will be added to past due accounts. Each returned check is subject to a \$20.00 service charge.

If you are granted credit terms with Mariak, an early payment discount may apply but is not guaranteed and must be confirmed on an individual account basis. If you are granted an early payment discount, payment must be received at Mariak on or before the 10<sup>th</sup> day from the date of invoice. Payment must be in the form of check, check by fax, ACH or wire transfer. Early pay discount does not apply to Credit Card Payments. Additional credit terms discounts will not apply to contract orders, special discounts or previously discounted pre-negotiated pricing.

All Contract Orders can only be paid by check, check by fax, ACH or wire transfer. Credit Card payment will not be accepted for Volume Discounted Contract Orders.

All prices are in U.S. Dollars and do not include freight, duties or taxes for shipments to Alaska, Hawaii or Canada. GST and VAT are not included in pricing.

International: Wire letter of credit or U.S.A. bank cashier's check

### **Freight & Delivery Policy:**

Please refer to the Mariak Truck, FedEx & Common Carrier Shipping Policy for complete details.

### **Manufacturing Specifications:**

Manufacturing specifications, options, surcharges and pricing are subject to change without notice.