

Terms and Conditions – Barcode Label Sales

TERMS OF SALE APPLICABLE TO ANY CONTRACT BETWEEN A PURCHASER AND O'NEIL SOFTWARE FOR LABELS ("PRODUCT") ORDERED FROM THIS WEBSITE.

THE FOLLOWING TERMS AND CONDITIONS, DESIGNATED "TERMS OF SALE", SHALL BE THE SOLE AND EXCLUSIVE TERMS AND CONDITIONS APPLICABLE TO ANY CONTRACT BETWEEN A PURCHASER AND O'NEIL SOFTWARE FOR THE LABELS DESCRIBED ON THIS WEBSITE AND ORDERED BY PURCHASER FROM THIS WEBSITE.

PURCHASER ACKNOWLEDGES THAT, BY CLICKING ON THE SUBMIT BUTTON, THEY HAVE READ THESE TERMS AND CONDITIONS, UNDERSTANDS THEM, AND AGREES TO THEM. CLICKING ON THE SUBMIT BUTTON WILL CREATE A CONTRACT CONTAINING THESE TERMS, WILL ENTER YOUR ORDER PURSUANT TO AND SUBJECT TO THAT CONTRACT, WILL TRANSMIT YOUR ORDER INFORMATION TO O'NEIL SOFTWARE, AND WILL RESULT IN A CONTRACT.

SHOULD ACCEPTANCE OF THE ORDER BY O'NEIL SOFTWARE FOR WHATEVER REASON BE DENIED, THERE IS NO CONTRACT AND NO ORDER ENTERED.

PURCHASER AGREES THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES AND THAT IT SUPERSEDES ALL QUOTES OR PRIOR AGREEMENTS, ORAL OR WRITTEN, AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF.

THESE TERMS OF SALE ARE SUBJECT TO CHANGE BY O'NEIL SOFTWARE AT ANY TIME, IN ITS SOLE DISCRETION, AND WITHOUT PRIOR NOTICE.

O'Neil Software - Terms of Sale

1. Price and Payment

All prices, unless stated otherwise herein, are F.O.B. shipping point and are exclusive of any present or future federal, state, local, or other taxes applicable to the sale of the products listed herein. Any such taxes shall be added to the price and paid by PURCHASER ("Purchaser") unless Purchaser provides COMPANY ("O'Neil Software") with a valid exemption certificate acceptable to O'Neil Software and the appropriate taxing authorities. Unless stated otherwise here, different label sizes ordered under this contract may not be combined to obtain quantity pricing. Purchaser shall be billed for and pay only for the quantity actually shipped or the minimum order quantity, whichever is greater. All other charges for which Purchaser shall be liable hereunder shall be paid as provided for in this agreement, and shall be paid for pursuant to this provision.

2. Acceptance

Orders once placed will be checked by O'Neil Software BEFORE being accepted. Purchaser will be notified if an order is not accepted along with the corresponding reason. Orders accepted by O'Neil Software may be cancelled or changed ONLY with O'Neil Software's consent and upon terms that will indemnify O'Neil Software against loss. All orders and amendments to orders are subject to acceptance by O'Neil Software.

3. Title and Risk of Loss

Title and risk of loss to all products purchased shall be passed to Purchaser upon delivery by O'Neil Software to a common carrier, regardless of the freight terms stated or method of payment of the transportation charges.

4. Shipping and Freight Charges

Freight charges shall be billed to and paid by Purchaser pursuant to the Price and Payment terms.

5. Returns

All defective products sold by O'Neil Software hereunder may be returned only in accordance with the warranty provisions hereof. Purchaser must obtain written return authorization and instruction from O'Neil Software before returning any product. In the case of an allegedly defective product, if O'Neil Software is at fault, O'Neil Software will issue a credit memo to reimburse Purchaser the return shipping charges as described in the warranty provisions.

6. Warranty

Non-Applied Labels

For one year from date of O'Neil Software's shipment to Purchaser, all label products shall be free from defects in material and workmanship. Purchaser's remedy for breach of the warranties set forth here shall be limited to reimbursing Purchaser for reasonable return shipping charges and to the replacement of product. In consideration for this warranty, Purchaser agrees to store unused labels in a cool and dry environment. If an alleged defective product is found by O'Neil Software, after a reasonable inspection, to be caused by improper storage or application, then this warranty and guarantee are void. This warranty/guarantee is limited to one year after the product was ordered. Any claims of patent defects such as color, size, or copy are limited to forty-five (45) days from the ship date.

Applied Labels

For twenty years from date of O'Neil Software's shipment to Purchaser, all label products shall be free from defects in material and workmanship. Purchaser's remedy for breach of the warranties set forth here shall be limited to reimbursing Purchaser for reasonable return shipping charges and to the replacement of product. If an alleged defective product is found by O'Neil Software, after a reasonable inspection, to be caused by improper storage or application, then this warranty and guarantee are void. This warranty/guarantee is limited to twenty years after the product was shipped.

THE FOREGOING REPLACEMENT OBLIGATIONS OF O'NEIL SOFTWARE ARE PURCHASER'S EXCLUSIVE REMEDIES UNDER THIS WARRANTY. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN AS SET FORTH ABOVE, AND ANY IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

7. Limitation of Liability

O'Neil Software's and its subsidiaries' entire and cumulative liability and Purchaser's exclusive remedy for actual damages for any cause whatsoever based on or relating to the subject matter of this contract will be limited to the amount of the purchase price of the product(s) hereunder upon which liability is based. This limitation will apply regardless of the form of action, whether in contract or in tort excluding negligence. In no event will O'Neil Software or its subsidiaries be liable for any lost revenue, lost profit, punitive

damages, or consequential damages or incidental damages even if advised of the possibility of such damages.

8. Assignment

Purchaser agrees not to assign or otherwise transfer this contract or any of Purchaser's rights under it, or delegate any of its obligations without O'Neil Software's prior written consent. Any attempt to do so is void.

9. Non-Waiver

In order for a waiver by O'Neil Software to be effective under this contract, it must be in writing signed by an authorized representative of O'Neil Software. The waiver by O'Neil Software of any instance of Purchaser's noncompliance with any obligation or responsibility herein shall not be deemed a waiver of subsequent instances.

10. Force Majeure

Neither party shall be liable for defaults or delays due to Acts of God or the public enemy acts or demands of any Government or any Governmental agency, strikes, fires, floods, accidents, default of a subcontractor unless cover is otherwise available, or other unforeseeable causes beyond its control and not due to its fault or negligence. Each party shall notify the other in writing of the cause of such delay as soon as reasonably possible, but in no event later than, five (5) days after the beginning thereof.

11. Choice of Law

This AGREEMENT shall be governed and construed in accordance with the laws and the courts of the State of California, without reference to its conflict of laws provisions. Both parties agree that proper jurisdiction for any action relevant to this AGREEMENT shall be Orange County, California, and agrees to submit to the jurisdiction of the courts within that County.

No action arising out of this AGREEMENT, regardless of form, may be brought by either party more than two years after the cause of action has accrued.

ANY DISPUTE RELATING TO OR ARISING FROM THIS AGREEMENT SHALL BE RESOLVED BY ARBITRATION UNDER THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION. ARBITRATION WILL TAKE PLACE IN ORANGE COUNTY, CALIFORNIA, USA. ANY COURT HAVING JURISDICTION OVER THE MATTER MAY ENTER JUDGMENT ON THE AWARD OF THE ARBITRATOR (S). SERVICE OF A PETITION TO CONFIRM THE ARBITRATION AWARD MAY BE MADE BY FIRST CLASS MAIL OR BY COMMERCIAL EXPRESS MAIL, TO THE ATTORNEY FOR THE PARTY OR, IF UNREPRESENTED, TO THE PARTY AT THE LAST KNOWN BUSINESS ADDRESS. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR IN THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION, (I) ANY ARBITRATOR(S) SHALL BE BOUND BY THE TERMS AND CONDITIONS OF THE AGREEMENT, AND (II) EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS OF THE AGREEMENT, OR FOR BREACHES OF SUCH OBLIGATIONS, IN NO EVENT SHALL THE ARBITRATOR(S) BE ABLE TO AWARD AND IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS EVEN IF SUCH PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Purchaser's Representations and Warranties

Purchaser represents and warrants that it claims no rights, benefits or protections under any U.S. Consumer laws or under any non-U.S. law(s) in its entry of this contract, and that it will make no such claims during the term of or performance of the contract, or concerning this contract.

13. Authority to Enter Contract and Bind Purchaser

The individual who electronically enters this contract on behalf of Purchaser represents and warrants that he or she, as applicable, has full authority from Purchaser to enter into this contract and to bind Purchaser in all respects concerning this contract. Additionally, the individual who electronically enters this contract represents and warrants that he or she, as applicable, has full authority from the owner of any credit card or credit account used and identified here to use such credit card or account and to authorize O'Neil Software to charge that credit card or account with respect to the full charges for all purchases of products made by Purchaser hereunder. Furthermore, such individual represents and warrants that he or she, as applicable, has set forth truthfully and completely his or her name and identity in the, Billing Information Section and not that of another person.

14. Entire Agreement Conditions and All Incorporated and Referenced Documents

The parties agree that these terms and conditions constitute the complete and exclusive statement of the agreement between the parties, which supercedes all proposals or all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this contract. Purchaser's orders and O'Neil Software's acknowledgment or invoices shall be deemed to incorporate, without exception, all the terms and conditions hereof, notwithstanding any printed order form of either Party containing additional or contrary term or conditions. Such additional or contrary terms shall not become a part of this contract unless this contract is amended as provided herein. No salesman, representative or agent of O'Neil Software is authorized to give any guarantee or warranty or make any representation contrary to those contained here.