

CONDITIONS OF SALE



Tuttle & Bailey also referred to as Seller. Tuttle & Bailey Representative also referred to as Buyer.

The entire contract is contained herein. The terms and conditions herein shall supersede all previous communication, agreements, or contracts, written or verbal, and no understanding, agreement, term, condition, or trade custom in variance herewith shall be binding on Seller. No waiver or modification of the terms and conditions hereof shall be effective unless in writing and signed by both parties.

Payment Terms: 1% 15 DAYS, NET 30 DAYS FROM DATE OF INVOICE. Cash discount applies to merchandise only. Accounts beyond our payment terms are subject to credit hold prior to processing additional orders. Account status must be current in order to take a quick pay discount on any order.

Credit Terms: Seller may suspend credit and/or refuse shipment whenever Seller in its sole discretion believes Buyer's credit is unsatisfactory, unless Buyer then makes arrangements for payment which are satisfactory to the Seller.

List Prices: Published periodically for Tuttle & Bailey's products. The list prices apply only to standard products built to catalog/submittal specifications. List prices are subject to change without notice.

Specials: Products ordered to non-specification standards are considered to be special products and are not covered by standard list prices. Specials may be subject to additional charges based on incurred costs as determined by Tuttle & Bailey. Tuttle & Bailey is not obligated to produce special products. All curved linear product quotes must be given 72 hours for completion.

Quotations: Job quotations are for prompt acceptance only. Job quotations will be valid for 90 days from date of issuance, and may be obtained from the Tuttle & Bailey Sales and Marketing Department. **The job quote number must be prominently displayed on the face of the job order.** If the order does not have a job quote number, it will receive Tuttle & Bailey's current published multiplier. Seller will NOT honor requests for credit if the job quote number does not appear on the subject order. It is the Buyer's responsibility to clearly indicate the job quote number on the order. Tuttle & Bailey retains the right to correct quotations containing clerical, typographical or extension errors. Job quotations must be submitted on the Special Quotation Request Form available from the Tuttle & Bailey Sales and Marketing Department or from the Tuttle & Bailey web page. Products on an order, which are not listed on the special quotation, are subject to the standard published multiplier. The Tuttle & Bailey Sales and Marketing Department must approve any additions to a standing quotation or extensions of the expiration date of a quotation.

Order Acceptance: All orders are subject to acceptance by Tuttle & Bailey. Quick Ship orders received after **2:00 PM CST** will be processed the next business day.

Written Orders: All orders must be received in print, through pricing center or fax. **Verbal orders are not accepted.**

Order Acknowledgements: Tuttle & Bailey standard orders are acknowledged after entry and approval of a "clean" order. Improper order write-ups or credit holds will delay the order approval. A manufacturing scheduled completion date is shown on each item. This schedule date is based on the approved date of the order and the published lead-time in effect at the time the order was approved. The lead-time is established by the longest lead-time item on a particular order. The Rep Fax "OST Report" (Order Status Notification) is faxed to the rep office each week and shows activity against each order until it is completely shipped. Additionally, Tuttle & Bailey notifies the customer that their order has been shipped by sending a daily shipping report via fax on the date that the order is released to the carrier. Upon receipt, order acknowledgements need to be checked by the Representatives and must report any corrections needed to be made to the Tuttle & Bailey Customer Service Department or credit (cost) will be shared between Tuttle & Bailey and the Representatives.

Order Changes: A minimum service fee of \$30 net per order will be assessed on all order changes including additions to orders. Additions will be accepted only if the original order has not been shipped and will carry the same discount as the original order. The buyer shall be responsible for any additional incurred costs due to changes (costs are determined by Tuttle & Bailey). If a partial shipment is desired, the request must be in writing. **SUPER SHIP and QUICK SHIP orders cannot be changed or partial shipped.**

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Reconsignment Procedures: Whenever a change of address for deliver occurs **after** an order has shipped from a Tuttle & Bailey plant, the order will get a reconsignment charge. Reconsignments for all freight carriers will be assessed a \$50 charge to compensate for the freight charges to Seller. These charges will be invoiced separately from the original invoice. Seller will require authorization from Buyer for all reconsignments.

Order Cancellations: All order(s) and/or item(s) are subject to acceptance by Tuttle & Bailey and if canceled will be assessed a minimum \$30 net service charge per order. Orders may be subject to additional charges based on incurred costs from the plants as determined by Tuttle & Bailey.

Orders may not be canceled at the expense of Tuttle & Bailey if a scheduled ship date is not met. **SUPER SHIP and QUICK SHIP orders may not be canceled.**

Schedule Ship Dates: Schedule ship dates are approximate and are subject to change without notice. Tuttle & Bailey will not be responsible for, or incur, any back charges/liquidated damages due to late deliveries.

Order Marking: An order mark identifies the complete order with a specific job name or contractor name. A specific area on the Tuttle & Bailey order form is provided for the mark. This information will be shown on the shipping labels and the packing list. Only one order mark can be used per order.

Product Tagging: Tagging identifies a specific product (item) on the order for specific location or application. There is no additional charge for product tagging. A maximum of 15 characters is available for tagging.

Crate Separately and Tag: This request identifies a specific product(s) on the order and requires this product(s) be not only tagged, but packaged by itself for a specific location or application. Other product(s) on the order are not to be packaged in the same box or crate. An additional charge of \$1.00 net per piece will be applied for this service on grille, register and diffuser orders. This must be clearly identified on the order.

Freight Terms: Freight terms are based on a single release by a customer to one shipping destination.

Refer to current Freight Rate Schedule in General Section of the Price Manual, or from the Tuttle & Bailey website, for freight and handling factors when invoiced freight is applied.

Shipping Responsibility: All shipments are made FOB (Freight On Board) manufacturing/distribution site. Tuttle & Bailey sites include Richardson, Texas; Tucson, Arizona; El Paso, Texas; Ponca City, Oklahoma; Tarboro, North Carolina; Geneva, Alabama; and Huntsville, Alabama. **Tuttle & Bailey's responsibility ceases upon delivery to the carrier.** Tuttle & Bailey shall not be responsible for loss or damage to goods in transit (Fed-Ex, UPS and RPS are exceptions to this) or for delays of carriers in delivery of shipments. Orders are normally shipped complete by manufacturing location. **Partial shipments must be requested in writing.** The partial shipments of an order will be prepaid and invoiced to the customer based on the current Freight & Handling Schedule.

Force Majeure: Seller shall not be liable for delays and defaults in delivery caused by floods, fires, storms, or other acts of God, by war, or act of public enemy (or civil disturbance), strikes, lockouts, shortages of labor or raw materials and suppliers (including fuel) or production facilities, transportation service or equipment shortages or failures, action of any governmental authority, or other conditions beyond Seller's reasonable control.

Exception Reporting: Exceptions (overage, shortage, and damage) noted at the time of delivery must be reflected on the delivery receipt and reported to the Seller's Customer Service Department immediately upon receipt of shipment. The Customer Service Department, upon checking with the Distribution Department, will advise the customer as to the disposition of the affected material.

In the event of special (expedited) delivery (i.e. UPS Red or Blue) in which the freight company fails to meet their commitment, the Representative must notify Tuttle & Bailey Customer Service as soon as possible. **After 15 days,** no premium freight charges can be claimed resulting from the Freight Company's missing of a guaranteed delivery commitment.

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After a claim is initially processed and the carrier has responded, Tuttle & Bailey will, if needed, assist in working with the freight carrier if loss or damage to a shipment does occur, but only if reported within **60 calendar days** of the date of shipment.

ALL REQUESTS FOR CREDIT MUST BE MADE WITHIN 60 DAYS OF RECEIPT OF MATERIAL (SEE POLICY AND PROCEDURES DETAILING "CREDIT MEMO" PROCEDURES). ANY DEVIATIONS FROM THIS PROCEDURE MUST HAVE PRIOR APPROVAL BY A TUTTLE & BAILEY REGIONAL SALES MANAGER.

Freight Claims: Claim action resulting from loss or damage products falls into two areas of responsibility:

- 1) FedEx, United Parcel Service or Roadway Parcel Service Shipments:** Initiating claims for loss against Fed-Ex, UPS or RPS is the responsibility of Tuttle & Bailey. The customer will report to the Seller's Customer Service Department, within *10 days of receipt of damaged or loss product, the following:
 1. Invoice number
 2. Date shipped or ordered
 3. Items short or damaged(In case of damage, the customer is to notify the local Service Center for pickup.)
* FedEx, UPS, RPS policy mandates reporting damages or lost product within this time frame.
- 2) Other than Fed-Ex, UPS and RPS Shipments:** Initiating claims for loss or damage against carriers other than Fed-Ex, UPS or RPS is the **responsibility of the Tuttle & Bailey Representative.**

IN NO INSTANCE SHOULD DAMAGED GOODS BE RETURNED WITHOUT PRIOR AUTHORIZATION FROM TUTTLE & BAILEY. IN NO INSTANCE SHALL A SHIPMENT BE REFUSED BY THE TUTTLE & BAILEY REPRESENTATIVE.

Returned Material: No merchandise may be returned for credit without written authorization from Tuttle & Bailey, shipping instructions, and return authorization number. Material returned without written authorization will not be accepted and will be returned to the customer freight collect. Return transportation charges must be prepaid. Shipment of return items must be made within **30 days** of date shown on Return Material Authorization (RMA) and shipped to the location specified on the Return Material Authorization. **If the return items are not sent within the 30 days from the date shown on the RMA, NO CREDIT WILL BE GIVEN.**

Restocking Policy: On standard items which are accepted for credit, a charge of 25% will be assessed to cover the cost of handling, inspecting, and restocking. An additional charge will apply for repairing and refinishing if necessary. Any non-standard item will be restocked only at the discretion of Tuttle & Bailey. It is the Tuttle & Bailey Representatives responsibility to verify & check proper receipt of all stocking product. Improperly manufactured product sent to the Representative, and identified at a later date, may be subject to no credit approval. **Tuttle & Bailey will not accept any product returns that a Representative may have in his/her current stock upon (or after) termination.**

Sample Product Policy: Products to be used as samples are available at Tuttle & Bailey's lowest published multiplier for that particular product. Additionally, Tuttle & Bailey will Quick Ship your sample at no additional charge provided that they are products currently offered on our Quick Ship Program.

Warranty Claims and Field Labor: The Buyer is responsible for investigating and determining the validity and magnitude of a reported problem regarding field service for products furnished and covered under the Sellers warranty. If in the opinion of the Buyer, there is a defective product, you must contact Seller to open a claim file and to determine what course of action should be taken. Products will be returned for exchange and/or rework at Sellers discretion. Otherwise, Seller will determine if field corrections should be attempted.

The Buyer is responsible for obtaining a written "not-to-exceed" estimate if field repairs are required. This estimate must be submitted to Seller for authorization PRIOR to any repairs being attempted, and based on the estimate and nature of the problem, Seller will decide whether to provide factory labor or to authorize the contracting of field labor.

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TUTTLE & BAILEY WILL NOT ISSUE CREDITS TO PAY FOR WARRANTY CLAIMS OR FIELD LABOR UNDER ANY CIRCUMSTANCES WITHOUT PRIOR WRITTEN APPROVAL FROM THE REGIONAL MANAGER. NOR, UNDER ANY CIRCUMSTANCES, WILL TUTTLE & BAILEY ACCEPT ANY CLAIMS, BACK-CHARGES, OR INVOICES SUBMITTED WITHOUT PRIOR APPROVAL FROM THE REGIONAL MANAGER.

Limitations of Warranties and Liability: Tuttle & Bailey extends a one (1) year warranty after shipment. Tuttle & Bailey's sole obligation under the one (1) year warranty is limited to one of the following, as selected by Tuttle & Bailey: delivering to the purchaser a replacement for any product or part, repair of any product or part or refunding an equitable portion of the purchase price paid for such product or part by the purchaser. Tuttle & Bailey makes no warranty of fitness for particular purpose of merchantability and no other warranty whether express or arising by operation of law, course of dealing, usage of trade, or otherwise implied, shall exist in connection with Tuttle & Bailey products or any sale or use thereof. Tuttle & Bailey shall not be liable for any costs (including costs of removal and replacement), liabilities, lost profits, loss of goodwill, or any other general, special, incidental, or consequential damages incurred in connection with the purchase or use of Tuttle & Bailey products.