

IDS Terms and Conditions Guide
Section H

Clause Number: H514
Effective: 8/24/2006
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LIQUIDATED DAMAGES (Variable)

If Seller fails to deliver the goods or perform the services within the time specified in this contract, the actual damage to Buyer for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, Seller will pay to Buyer as fixed, agreed, and liquidated damages for each calendar day of delay the amount set forth elsewhere in this contract. If Buyer cancels this contract, in whole or in part, under the Cancellation for Default provision of this contract, Seller will be liable for such liquidated damages accruing until such time as Buyer may reasonably obtain delivery of substitute goods or performance of substitute services. The liquidated damages set forth in this contract are specifically applicable to late delivery only. Buyer's rights and remedies for other than late delivery are as set forth in this contract and are available at law or in equity. For purposes of this provision, the term "delivery" shall mean receipt of conforming items at Buyer's receiving dock. Seller will not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of Seller, and, in such event, Buyer will ascertain the facts regarding the delay, including the length of the delay, and will extend the time for performance of the contract if, in Buyer's judgment, the findings of fact justify an extension.