

GENERAL CONDITIONS AND INSTRUCTIONS

1. Identification of shipments. The Purchaser cannot and will not be responsible for any material received unless each package, case, etc., is clearly identified on its outer covering as to: 1. Seller 2. Purchase Order Number. If Purchaser furnishes shipping tags for direct shipment to Purchaser's customer, Seller assumes responsibility of non-acceptance of shipments by Purchaser's customer in the event such shipping tags are not attached to packages, cases, etc. On shipments direct to Purchaser's customer where no shipping tags are furnished, packages, cases, etc., must be marked as specified on face of order.
2. Boxing, Packing or Cartage. No charges for boxing, packing, or cartage will be allowed unless stated hereon or later agreed to by this company in writing.
3. Invoices. Invoice showing Purchase Order Number, must be mailed to the Purchasing Department of the Purchaser not later than the day following shipment, irrespective of whether shipment is in part or in whole.
4. Inspection. The material or apparatus to be supplied against this Purchase Order shall, at the Purchaser's option, be subject to inspection and test at the maker's works.
5. Rejected material. Rejected material shall be returned to the Seller at Seller's expense.
6. Time of delivery of this order is of the essence, and Purchaser reserves the right to cancel without cancellation charges, all or any part of this order if not filled within the specified time. Exercise of such right of cancellation shall not be deemed a waiver of any other right reserved to the Purchaser herein, or by law, for any delay or failure to deliver as specified.
7. No partial shipments accepted unless agreed upon by both parties.
8. The Seller agrees to comply with any and all Federal, State, County and Municipal and/or other local regulations, laws, ordinances and enactments of whatever kind, applicable at the time of sales or which may become effective during the period of construction or fabrication, shipping and/or installation (if installation is included) of the materials comprised under this Purchase Order.
9. The price or prices of this order are not subject to change or any surcharges resulting from the imposition now or in the future of any sales taxes, Federal, State, Municipal or otherwise, unless agreed to or requested by Purchaser.
10. In the event approval is not secured from the Owner, or if the Owner's order to the Purchaser is cancelled, cancellation of this order shall occur automatically, without cancellation charges by the Seller; and no obligation of any description, whatsoever, shall exist on the part of the Purchaser toward the Seller.
11. The contract price appearing on this Purchase Order is final as to payment for the material covered by the specifically listed items, as defined by the enumerated specification paragraph numbers, with exceptions as noted, and there shall be no additions to or other modifications of such contract price, except as such modifications may result from actual change in the specifications. If such changes become necessary, any alteration of the contract price shall be covered by separate order, which shall be issued to cover such changes. Seller shall not proceed with changes affecting contract price without specific authorization in WRITING from the Purchaser.
12. Payment and discount periods shall commence only upon receipt of both the material and proper invoice or invoices at designations specified in this Purchase Order. The Purchaser reserves the right to return to the Seller for correction any and all invoices containing error and/or not in agreement with this Purchase Order.
13. The Purchaser reserves the right to return to Seller at the invoice price all items which are regularly carried in Seller's stock.
14. Seller represents and warrants to Purchaser that all material and/or equipment rented, leased or purchased under this purchase order meets all standards of the Occupational Safety and Health Act of 1970 and Construction Safety Act of 1969, as amended from time to time, and of applicable State and Local laws, regulations, standards or requirements pertaining to safety, as amended from time to time.
15. All material and/or equipment furnished under this order shall be guaranteed as published or warranted by the manufacturer by the Seller against defects, and Seller agrees as published or warranted by the manufacturer to replace without charge to Purchaser said material and equipment, or remedy any defects, latent or patent, not due to ordinary wear and tear, or not due to improper use or maintenance, which defects may develop within one year from date of acceptance by Owner, or within the guarantee period set forth in applicable plans and specifications, whichever period is longer.
16. All material and equipment furnished under this order shall be subject to the approval of the architect, engineer, or any other party designated, and Seller shall furnish the required submittal data and/or number of samples for said approval. In the event such approval is not obtained, the order is cancelled, with no liability on the part of either Purchaser or Seller, unless the order is placed with the understanding that the material and/or equipment is to be supplied of the type and in such a manner as to meet requirements of plans and specifications. In the latter case Seller shall comply without further cost to Purchaser.
17. All material and equipment furnished hereunder shall be in strict accordance with plans, specifications and general conditions applicable to the contract of Purchaser with the Owner or another contractor, and Seller shall be bound thereby in the furnishing of material and equipment under this Purchase Order.
18. Seller shall guarantee as published or warranted by the manufacturer equipment covered under this purchase order to produce capacities or meet design specifications and function: (1) as called for in the plans, specifications or addenda; and (2) as herein set forth; and (3) as published or warranted by the manufacturer for the equipment involved. In the event the equipment does not meet the foregoing requirements, Seller shall immediately on notice replace same, or remedy any deficiency, without expense to the Purchaser; and further, Seller shall pay to Purchaser all consequential loss or damage resulting therefrom per Ohio anti-indemnity statute.
19. To the fullest extent permitted by law, the Seller hereby agrees to indemnify, defend, and save harmless the Purchaser from and against all claims, liability, loss, damage or expense, including attorneys' fees, arising out of, or in connection with, this Purchase Order.
20. Seller shall furnish all necessary lien waivers, affidavits or other documents, required to keep the Owner's premises free from liens or claims for liens, arising out of the furnishing of the material or equipment herein, as payments are made from time to time under this purchase order.
21. All prior representations, conversations, or preliminary negotiations shall be deemed to be merged in this order, and no changes will be considered or approved unless this purchase order is modified by an authorized representative of Purchaser in writing.
22. In the event of default of any of the terms or conditions set forth herein, the Seller agrees to pay all costs resulting therefrom, including but not limited to, reasonable attorneys' fees.
23. This purchase order, when accepted by Seller, shall constitute a valid and binding contract. The laws of the State of New York shall govern all matters arising from this Purchase Order and the Seller and Purchaser agree that any dispute arising from this Purchase Order shall be venued in Erie County, New York.