

TERMS AND CONDITIONS

1.ACCEPTANCE. These terms and conditions may be accepted only on the exact terms set forth and no other terms and conditions. These terms and conditions supersede the terms and conditions of Seller's proposal and acknowledgement form.

2.MODIFICATION OF TERMS. Nothing typed or printed in this order shall modify any of the printed terms and conditions unless specific reference is made to the "Terms and Conditions" sought to be charged. Paragraph titles herein are for convenience and shall be disregarded in the interpretation of this order.

3.CHANGE OF PRICE. Unless otherwise specified, prices and terms are firm for duration of indicated project. Buyer may make deductions for claims arising from this order or other transaction with Seller.

4.MODIFICATIONS. Seller shall make no substitutions or changes in this order without authority executed in the same manner and on the same terms as the original order.

5.SHIPMENT. On shipments the Seller shall promptly notify Buyer of the shipping point and the initial carrier. If Buyer is to pay freight charges routing must be secured before shipment is made.

6.DELIVERY. Deliveries shall be made at the time and in the manner specified. Time is of the essence. If deliveries are not made at the time agreed upon, Buyer reserves the right to modify the delivery time, to cancel or to purchase elsewhere, and hold Seller accountable therefore. All packaging and cartage charges and taxes are included in the price. Buyer will not allow price additions unless otherwise specified on the face hereof. If deliveries are so behind the schedules specified in this agreement as to make it necessary if Buyer to request Seller to make shipments by other means, understood that Seller will pay any increased transportation cost. The F.O.B. term used in this contract is a delivery term but risk of loss shall remain with Seller until acceptance of the goods. There will be no acceptance of the goods regardless of inspection or payment until the goods are accepted and approved by Buyer. In the event the goods are nonconforming, Buyer may either return rejected goods or hold at Seller's risk and expense, and may in any event charge Seller with the cost of transportation.

7.CANCELLATION. Buyer has the right to cancel this and any or all other orders of contracts between Seller and Buyer or to reduce the quantities of the goods to be delivered here under in the event of (a) Any preceding by or against Seller in voluntary or involuntary bankruptcy or insolvency for the appointment of a receiver or trustee, or any assignment for the benefit of creditors of the property of Seller's company (b) A breach by the Seller of any of the terms hereof, including any warranty made in connection with the goods ordered hereunder, (c) A determination by a court or the body having jurisdiction that the goods furnished hereunder infringes any patent, trademarks, copyright, violates any statute, ordinance, or administrative order rule or regulation.

8.ADDITIONALWARRANTIES. Seller warrants that i) it is a merchant as defined in the Uniform Commercial Code with respect to the goods delivered hereunder ii) the title to the goods delivered hereunder is good and marketable and free and clear of all liens, taxes, charges of other encumbrances iii) the purchases made are fit for their intended purpose, iv) the goods sold are merchantable, of good quality, and free from defects where patent or latent in material and workmanship and, if Seller furnished design, in design, v) such goods and their components are new and not previously used.

9.INDEMNITY. Seller agrees to hold Buyer harmless from, and to protect defend and indemnify Buyer against any and all loss, liability damages, costs attorney's fees and expenses arising from or suffered or incurred or in any manner connected with (a) any claim or injury to person or property caused in whole or in part by any act or omission by Seller, Seller's Agents or employees in the furnishing of articles or materials or in the performance of any work hereunder, except those injuries and damages caused solely by Buyer, while executing this order or making delivery hereunder, (b) any claim, with respect to any of the goods called for by this order or arising out to the use of such goods, or infringement of any patent, copyright, trademark, trade name, brand or slogan, or of unfair competition or any adverse claim or statutory or no statutory rights and (c) arising out of the violation by such goods or their manufacture or sale of any federal, state or local statute ordinance, of administrative order, rule or regulation.

10.CONFORMITY WITH EXISTING LAWS. The Seller agrees to comply with all federal, state and local laws, executive orders, codes and regulation effective where this agreement is entered into or to be performed. Where required by applicable law, rules, regulations or executive orders, equal opportunity provisions, attached hereto, shall be included herein as a part of this agreement. All goods delivered hereunder without limiting the generality to the previous sentences are subject to Executive Order 11246, the Equal Employment Opportunity Act, and will comply with the Federal Safety and Healthy Act of 1970. Seller confirms that all goods sold and delivered in filling this order will be produces in compliance with the requirements of the Fair Labor Standards Act as amended.

11.WAIVER. No waive by Buyer of any breach of this agreement or any other agreement by the Seller or the failure of Buyer at any time to exercise a right or privilege granted to it herein, shall be deemed to constitute a waiver of any subsequent breach of agreement or any other right or privilege.

12.GOVERNING LAWS. The laws of the state where the goods are to be shipped to and first used without reference to this conflict o laws shall govern as to all questions arising under this order.

13.FINAL PAYMENT. Acceptance by Seller of final payment of the price shall be release of Buyer of all claims and liability to Seller for anything done, furnished or related to the work of this order or for any act or neglect of Buyer or its representatives.

14.EXCLUSIVE REMEDIES. The exclusive remedies of the Seller hereunder shall be to have the goods not paid for returned, and to receive payment for goods not paid for and not returned.

CONTEMPORANEUS EXCHANGE. Seller and Buyer agree and understand that this sale is intended to be a contemporaneous exchange; Buyer represents and warrants that payment for the materials so deliveries will be made in a substantially contemporaneous manner.

Seller and Buyer agree that this sale is in the ordinary course of Seller's business and Buyer's business according to ordinary business terms employed by Seller and Buyer. Seller and Buyer agree and understand that amounts of subsequently paid by Buyer and received by Seller will be credited by Seller to this sale on creditor's books of account, notwithstanding the fact that Buyer may have earlier open accounts payable.