

GENERAL TERMS AND CONDITIONS OF SALE

1. BUYER'S ACCEPTANCE OF CONDITIONS — If the terms and conditions of this acknowledgement differ in any way from the terms and conditions of the purchasers order, the acknowledgement shall be construed as a counter offer and shall not be effective as an acceptance of such order unless the purchaser assents to the terms and conditions herein which shall constitute the entire agreement between the parties. IN ACCORDANCE WITH THE USAGE OF THE TRADE, YOUR ASSENT TO THE TERMS AND CONDITIONS OF THE SALE SET FORTH HEREIN SHALL BE CONCLUSIVELY PRESUMED FROM YOUR FAILURE TO OBJECT IN WRITING WITHIN THREE (3) DAYS FROM THE DATE HEREOF OR FROM YOUR ACCEPTANCE OF ALL OR ANY PART OF THE MATERIAL ORDERED, WHICHEVER FIRST OCCURS. All proposals, negotiations and representations if any, regarding this transaction made prior to the date of this acknowledgement are merged herein. No additions or modifications of any of the terms and conditions hereof shall be effective unless made in writing and signed by an officer of the seller.
2. FORCE MAJEURE — Production and delivery of material to be provided hereunder are subject to delays occasioned by strikes, threats of strikes, blackouts, war, bombing, insurrection, acts of God, calamities, civil commotions or regulations of any governmental body or authority, impossibility of obtaining materials, non-arrival or delay in delivery of raw materials, delays or interruptions in transportation, or other disabling matters, things or conditions, whether similar or dissimilar to the foregoing, beyond the reasonable control of the Seller. Seller shall not be liable for any costs incurred by Buyer, or for any special, direct or indirect, incidental or consequential damages to anyone by reason of any delay in performance or failure to deliver material within the time specified by Buyer or stated by Seller, so long as such delay is occasioned by any of the foregoing causes, and production and delivery hereunder shall be suspended so long as the same are prevented or delayed by such cause.
3. There are no warranties which extend beyond the description of material on the face hereof. No other warranties of any kind whether statutory written, oral, expressed or implied, including the warranties of merchantability and/or fitness for a particular purpose shall apply.
4. Seller's liability to Purchaser arising out of the sale, delivery, no delivery or use of the material, shall not exceed the price of material as shown on the face hereof, and Seller shall have no liability whatsoever for any incidental or consequential loss or damage of any nature howsoever arising — Failure by the Purchaser to give Seller written notice of claim within thirty (30) days from the date of delivery, or, in the case of non-delivery from the date fixed for delivery, shall constitute a waiver by the Purchaser of all claims in respect to such material.
5. Each delivery constitutes a separate Contract.
6. Insurance in transit to be taken out by Buyer at his cost.
7. Any sales, process or excise taxes that may be levied by the Federal, State or Municipal authorities on the product herein mentioned shall be added to the sales price.
8. Price at time of shipment will apply.
9. All orders will be shipped on freight collect basis unless special previous arrangements have been made. In the case of prepaid shipments on delivered basis, the actual material and freight charges at time of shipment will apply.
10. CREDIT APPROVAL — Shipment, deliveries and performance of work shall at all times be subject to the approval of Seller's Credit Department. The Seller may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to such Department.
11. No payment by Buyer or receipt by Seller of a lesser amount than is then due and owing by Buyer pursuant to all outstanding invoices shall be deemed to be other than on account of the earliest dated invoices, nor shall any endorsement or statement on or accompanying any check, money order or other form of remittance by buyer to be deemed an accord and satisfaction without Seller's express written consent, and Seller or Seller's agent may accept such check, money order, or other form of remittance as partial payment without prejudice to Seller's right to recover the balance of such invoice amounts or pursue any other remedy provided by law or equity.