

Terms and Conditions of Sale

ACCEPTANCE OF PURCHASE ITEMS

All sales are subject to review and no sales are final until accepted by Rupert Construction Supply ("Rupert" or "Seller"). Prices on your Purchase Order ("PO") may differ from our current selling prices. In the event prices listed on your PO are not accepted by Rupert, the prices will be corrected on your PO and sent back to you for your approval. To continue processing your order we must receive a return of the PO confirming the corrected pricing. The acceptance of any order from Buyer pursuant to this quotation is conditioned upon the acceptance by Buyer of all terms and conditions contained in this quotation. Any inconsistent or additional terms contained in the Buyer's purchase order are hereby rejected unless expressly accepted in writing by Seller after its receipt of an acceptable purchase order. The terms and conditions as stated herein shall not be modified other than in writing signed by Seller and Buyer.

Take-Offs/Estimates/Hardware

Seller is not responsible for the accuracy of any take-offs. All dimensions and/or quantities shall be verified by Buyer and each shop drawing shall be signed by Buyer and received by Seller before production begins. Failure to sign shop drawings as provided herein shall not operate as a defense to any claim brought by Seller to enforce the contract. Unless expressly noted as included in this contract, all installer's hardware/materials is excluded. Changes in design, quantities, etc. may affect price.

DEFINITIONS

Term: Buyer: As used herein, the term "you" and/or "your" shall be equivalent to "Buyer" or "Resale Buyer".

Term: Seller: As used herein, the term "Seller" shall mean Rupert Construction Supply.

Term: Special Order: As used herein, the terms "Special Order" or "Special Item" shall mean any items currently unavailable, or items not routinely maintained in onsite inventory. "Special Order" shall also include any item which requires custom or specially fabricated materials, components, finishes, or manufacturing."

PRICES AND TAXES

Unless otherwise stated herein, the prices quoted are F.O.B. ship point. The amount of any local, state or federal tax levied on the goods referred to herein to the date of shipment shall be added to the amount owed by Buyer and shall remain the sole responsibility of Buyer. If Buyer claims tax exempt status Buyer shall provide Rupert with a tax exemption certificate acceptable to tax authorities for each state in which goods are to be shipped prior to job start. Unless otherwise agreed upon and clearly stated on the quote or acknowledgment, prices do not include shipping costs.

ATTENTION RESALE CUSTOMERS

At the time of placing an order, resale buyer shall provide all resale certificates required under Federal, California, and local laws and/or ordinances. Should it become known at any time after an order is placed by Buyer and Accepted by Seller that additional certificates are required, Buyer shall furnish those certificates as soon as possible. Resale buyer accepts all liability for any delay in completing and providing resale buyers order due to resale buyers failure to provide any required and/or reasonably requested certificates. Payment for all special-order inventory acquired by Seller to complete Buyer's current order or anticipated orders shall be due upon demand by Seller. Any portion of the price which is not paid in accordance with the terms of payment herein stated shall bear interest from the due date at the rate of 1.5% (or the maximum rate allowable by applicable law) per month. The price quoted herein is subject to applicable price adjustments in effect at the time of shipping. Payment terms are noted on each invoice. Accounts over 30 days past due will result in current orders being held until all accounts are made current, which is likely to create delivery delays. Delinquent account balances over 60 days past due may be sent to collections and Buyer agrees to reimburse Seller for all expenses incurred in pursuing payment and/or collection efforts, including but not limited to collection fees, court costs and attorney's fees.

DELIVERY

Delivery dates shall be subject to and contingent upon timely receipt of an agreed upon PO by Seller, together with Buyer credit qualifications and timely receipt of finalized shop drawings. Seller shall not be responsible or liable for any delays, damages related to those delays, or failures in the manufacture or delivery of the goods due to any cause or condition beyond the control of Seller, including, without limitation: failure to meet any estimated delivery date due to: credit qualification delays; force majeure events; Seller strikes or labor difficulties; fires; floods; other actions of the elements, including but not limited to, natural disasters, pandemics, or declarations of any state of emergency; inability to secure transportation of goods; material shortages; equipment shortages; riots; work stoppages; strikes; component unavailability; delays by component

vendors; delay or default of common carrier; failure by Buyer to timely respond to questions regarding and/or final approval of shop drawings, including but not limited to, modifications to shop drawings; any unforeseeable event or circumstance; actions by governmental entities including but not limited to: state, federal, local or other government authorities; any change to applicable laws, regulations, ordinances, or governing rules; or other civil commotions and acts of God and war.

DISCREPENCY/FAILED DELIVER CLAIMS

The Buyer should file all claims for damage or shortages with the carrier handling the shipment. Claims stemming from discrepancies between invoice descriptions or quantities and actual product received by the Buyer due to an alleged error by Seller must be made in writing within 72 hours of delivery. Any such claim not presented within that time limit is expressly and specifically waived by Buyer. Failure to make a claim within this period shall serve as conclusive evidence that the goods delivered were the invoiced items and quantities. In addition, any discrepancy or defect alleged to exist in the goods delivered to Buyer must be noted on the packing slip at the time of delivery.

ATTENTION RECEIVING

INSPECT FREIGHT BEFORE SIGNING DELIVERY SLIP. IF DAMAGED PLEASE NOTE DAMAGES AND ANY PALLET SHORTAGE ON THE DELIVERY SLIP. BY NOT MAKING NOTES OF THE SHIPMENT ON THE DELIVERY SLIP THE RECEIVER ACCEPTS ALL FREIGHT AND CERTIFIES THAT ALL FRIEGHT IS ACCEPTABLE TO BUYER, IN GOOD CONDITION AND IS RESPONSIBLE FOR ANY DAMAGES OR MISSING PALLETS NOT SPECIFICALLY NOTED ON THE DELIVERY SLIP. RUPERT CONSTRUCTION SUPPLY WILL NOT BE RESPONSIBLE FOR ANY DAMAGES NOT NOTED. IN THE EVENT DAMAGE IS NOTED, DOCUMENT SAID DAMAGE BY PHOTOGRAPH AND SEND PHOTOS OF DAMAGED FREIGHT TO RUPERT CONSTRUCTION SUPPLY IMMEDIATLEY. BY ACCEPTING THESE TERMS BUYER ACKNOWLEDGES THAT A FAILURE TO PROVIDE SUCH EVIDENCE WILL PREVENT RUPERT'S ABILITY TO EVALUATE AND TIMELY CORRECT ALLEGED DAMAGE.

SHIPPING AND HANDLING

Freight charges will be charged as noted on the bid quote. If early shipments of material are required pursuant to project schedule, additional freight charges will apply.

LIMITATION OF REMEDIES AND LIABILITIES

Buyer's exclusive remedy for nonconforming goods, is to make a warranty claim pursuant to the manufacturer's standard material warranty, generally limited to one-year. Seller expressly disclaims any and all implied or other warranty not expressly stated herein to the fullest extent permitted by law. Seller specifically limits expressed warranties to the manufacturer's standard material warranty. To make a warranty claim, Buyer shall provide Seller written notice, by email and mail, of the claim immediately upon occurrence of the circumstances giving rise to the claim. All warranties applicable hereto and where permitted by law, expire one year after the date of delivery of the goods. By agreeing to purchase materials from Seller, Buyer expressly assents to the limitation of remedies and liabilities described in this section. Seller shall not, under any circumstances, be liable for any consequential, special, liquidated, or other damages, including but not limited to, business interruption, delay, or lost profits, arising from nonconforming goods or warranty claims made by Buyer.

TITLE AND RISK OF LOSS

Unless otherwise stated herein, title in and risk of loss for all goods sold hereunder shall pass to Buyer upon shipment. However, if Seller has acquired special order inventory to complete Buyer's current order, anticipated orders, or for a Special Item, the risk of loss to all such inventory shall pass to Buyer upon purchase of the inventory by Seller.

CANCELLATION OR CHANGE ORDERS; DELIVERY

No orders may be withdrawn or canceled by Buyer, nor may they be deferred when ready, unless Seller shall have previously approved such withdrawal, cancellation or deferral in writing and Seller shall have been paid a withdrawal, cancellation or deferral charge of a reasonable amount acceptable to Seller. In the event Buyer shall request changes in its order after receipt thereof by Seller, it shall be responsible for all charges and expenses reasonably incurred by Seller with respect to such changes. Any dates or schedules which may be specified for the delivery of the goods purchased hereunder have been stated only approximately and are estimated from the date of this quotation, with complete specifications, designs, samples and other information reasonably requested by Seller to be provided in order to proceed with the manufacture and delivery of the goods. Seller shall not incur any liability, either direct or indirect, nor shall this quotation or any purchase order be canceled, as a result of any delays in meeting such dates or schedules.

RETURNED MATERIAL

Any materials which qualify for and are accepted by Seller for return shall be subject to a 25% restocking fee at the option of Seller. Seller, in its sole discretion, may elect to waive the restocking fee on a case-by-case basis. Fabricated and Special-order items ARE NOT RETURNABLE. Unopened stock material may be returned for a credit towards purchase of additional items on a case-by-case basis. No credit will be issued for return of goods older than sixty (60) days (from the date of shipment) or for products not returned in their original unopened factory package.

LIMITED WARRANTY

Seller makes no warranty whatsoever, except as to title, with respect to goods manufactured and/or designed to Buyer's or any other party's specifications or with respect to any material selection by any party other than Seller, and Buyer shall, at its own expense, defend and save Seller harmless from and against any claim, suit, expense or otherwise which shall be asserted or brought against Seller by reason of Seller's manufacture or sale of such goods. All goods are sold and samples of goods provided with the understanding that Buyer has independently determined the suitability or compatibility of such good for its purposes. Any statements, technical information or recommendations concerning goods sold or samples provided by Seller are based upon data provided to Seller by its suppliers and believed to be accurate, but do not constitute a guarantee or warranty. Seller makes no representation or warranty that the delivery or subsequent use of the goods ordered shall be free of the claim of any third party by way of infringement. Seller, at its sole option, will replace any of the goods which fail to meet Buyer's specifications or are due to Seller's defective materials or workmanship; provided, however, if Seller determines that replacement is not commercially practicable, Seller shall issue a credit in favor of Buyer in an amount not to exceed the purchase price of the goods. All claims for breach of this warranty must be made to Seller within ten (10) days after the date of shipment of the product to which the claim relates and must be returned at Buyer's expense to Seller's plant in accordance with Seller's written material return authorization and instructions and the provided label. Seller's warranty shall extend only to the original Buyer from Seller. Seller's warranty does not cover the effects of normal wear, tear, deterioration or abuse of the goods or the effects of improper shipping, storage or handling of the product.

EXCEPT FOR THE EXPRESS WARRANTY DESCRIBED ABOVE, THERE ARE NO OTHER WARRANTIES OR GUARANTEES, EITHER EXPRESS OR IMPLIED, WRITTEN, ORAL OR ARISING UNDER CUSTOM OF TRADE INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. NO WARRANTIES OR REPRESENTATIONS AT ANY TIME MADE BY ANY REPRESENTATIVE OF SELLER SHALL BE EFFECTIVE TO VARY OR EXPAND THE ABOVE-REFERENCED EXPRESS WARRANTY OR ANY TERMS HEREOF.

LIMITATION OF LIABILITY

In no event shall Seller be liable to Buyer or to any third party for consequential, incidental or special damages, or for lost profits, resulting from or in any manner related to the goods, their delivery, non-delivery, design, use, or any inability to use the same, whether such damages be claimed under contract, tort or any other legal theory. Buyer understands that the sole and exclusive remedy of Buyer shall be the replacement of any defective product pursuant to the warranty provision hereinabove. Should the product prove so defective, however, as to preclude the remedying of warranty defects by replacement, Buyer's sole and exclusive remedy and Seller's sole and exclusive liability shall be a credit in favor of Buyer in an amount not to exceed the purchase price of the goods upon Buyer's return of the goods of Seller. This limitation of liability shall survive the termination, expiration or cancellation hereof.

THIRD PARTY PARTICIPATION

Seller is not responsible for any delays caused by third parties utilized by Seller to produce its goods or the inability of any such third parties to deliver their goods or services to Seller. It is understood by Buyer that Seller's quote may be based on a quote from a third party and Seller shall not be bound by its own quote if any third party fails to provide its goods or services as promised or agreed.

INDEMNIFICATION

Buyer shall indemnify Seller against all claims, losses, liabilities and expenses (including, without limitation, reasonable attorney fees) on account of any damaged property or injury or death of persons (including, without limitation, Buyer's employees) arising out of the Buyer's storage, handling, use, implementation or disposal of the goods or arising out of any infringement claim where Seller was not responsible for the design of the goods, except for any portion of damages

attributable to Seller's gross negligence. This indemnity obligation of Buyer will survive the expiration, termination or cancellation hereof.

INTEGRATION

There are no understandings between the parties hereto as to the subject matter hereof other than as set forth herein. All previous communications between the parties hereto concerning the subject matter hereof, whether verbal or written, including, but not limited to Buyer's purchase order, are hereby abrogated and withdrawn, and this contract constitutes the whole of the agreement between the parties hereto. Any additional terms and conditions of a purchase order or change order shall not apply hereto unless agreed to by Seller in writing. Delivery of a purchase order by the Buyer pursuant to this quotation shall be deemed to be an acceptance by Buyer of the terms and conditions of this quotation and the terms and conditions included herein. Any different terms or conditions in any purchase order, regardless of whether such terms and conditions are material or not, shall not be binding unless expressly accepted in writing by Seller and Seller specifically objects to the inclusion of any different or additional terms or conditions by Buyer in confirming or accepting this quotation. If Buyer does include different or additional terms and conditions in its purchase order, acceptance, confirmation or other written form sent in response to this quotation, neither Seller's delivery of all or part of the goods, nor any other action except a written notice from Seller, shall constitute acceptance of such additional or different terms, but instead the terms and conditions of this quotation shall govern.

MISCELLANEOUS

The terms and conditions applicable to the transaction provided for herein shall be determined and construed in accordance with, and shall be governed by, the laws of the State of California. The parties agree that the United Nations Convention of Contracts for the International Sale of Goods will not apply to this contract. Further, Buyer and Seller agree to submit to the jurisdiction of the appropriate local, state or federal courts within El Dorado County, California for purposes of resolving any dispute or claim arising in connection with said transaction. Nothing in this contract shall be construed as creating any act or beneficial right in or on behalf of any third party. The failure of either party to insist or enforce in any instance strict performance of any of the terms of this contract or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

PAYMENT OF LESS THAN FULL AMOUNT

In no event shall acceptance by Seller of payment for less than the full amount invoiced to Buyer be interpreted as acceptance of payment in full from Buyer.

CONSENT TO CALIFORNIA LAW AND JURISDICTION

If there is any legal dispute arising from this sale of material, the matter will be governed by the laws of the State of California. You agree that the U.S. or California courts has exclusive jurisdiction over any disputes arising from the sale of material herein.

CHANGE OF BUYERS NAME, ADDRESS OR REORGANIZATION

Buyer hereby agrees to notify Seller in writing of any changes of name or address or any corporate reorganization or change of ownership, which may affect the information on your Credit Application.

ALTERATIONS OF TERMS AND CONDITIONS

No alteration or waiver of the terms and conditions contained herein shall be effective unless authorized in writing and signed by a corporate officer of Rupert. In the event Buyer submits a PO with terms that are in conflict with the Rupert terms and conditions of sale, the terms and conditions of Rupert shall prevail.

Prime Contract Officer Signature Date

Rupert Contract Officer Signature Date