

CONDITIONS OF SALE

Unless otherwise stated in writing by an authorized MPS Civil Products (hereafter "Seller") manager, all transactions between the Buyer and Seller are expressly subject to these terms and conditions as detailed in this document unless agreed to by both parties in writing. The Seller will not be bound by any terms proposed by Buyer, whether in purchase orders or otherwise, which are additional to or different from the terms and conditions set forth herein. Terms and conditions are subject to change without notice and become immediately effective.

PRICES

Prices are subject to change without notice. In the event of a price increase, quotations for products in writing not covered by a firm purchase order accepted by the Seller may be subject to adjustment to those in effect at time of shipment. Possession of Seller's published price sheets does not obligate Seller to sell to the Buyer possessing the price sheets.

QUOTATIONS

Valid quotations are those issued by Seller's Marketing department and, unless otherwise specified, are subject to Buyer's written acceptance within 30 days of issuance to be valid. On blanket quotations, Seller's quoted prices apply for the quantity stated on Buyer's RFQ. Seller reserves the right to make price adjustments on items where quantities exceed the original quoted quantity or to rescind prices on items with no order activity within 120 days of the quote. All clerical errors are subject to correction.

TAXES

Published or quoted prices do not include sales excise, or similar taxes that are the responsibility of the Buyer. Where Seller is required to collect such taxes, they will be invoiced as a separate item to Buyer unless an appropriate tax exemption certificate is on file with Seller for each state Seller drops to for Buyer. Taxes not billed or quoted by the Seller are the responsibility of the Buyer.

CREDIT

Acceptance of orders shall be subject to Buyer providing Seller with an acceptable Credit Application. If in the judgment of Seller, the financial condition of the Buyer does not prove worthy of extending credit, the Seller will require full or partial payment in advance of production or shipment.

PAYMENT TERMS

Unless otherwise agreed to in writing by Seller's marketing management, terms of payment are net 30 days from date of invoice payable in US funds. Balances exceeding 60 days from date of invoice will result in Seller suspending all shipments, production of open orders and engineering support to Buyer until Buyer's account is current.

ORDERS

Minimum charge on any individual order is \$250 net. Orders not meeting the above minimum, Seller will request Buyer to add products to meet minimum order or invoiced will be automatically raised to the minimum billing level. All orders, including order deferrals, are subject to final acceptance by Seller's Marketing Department at its Fort Mill, SC headquarters. Order deferrals may be subject to a price adjustment. Individual line items on Buyer's order may be subject to either an amount or quantity minimum. If a price discrepancy exists on an order, the item in question will not be entered into Seller's order system until the price issue is resolved and the order is amended in writing.

ORDER ADD-ON POLICY

Standard production items with lead times of 3 weeks or less can be added to Buyer's order at the original order terms within 24 hours of original order entry as long as the original order has not shipped complete. Production orders with lead times more than 4 weeks, items can be added onto original order up to 5 days after acceptance of purchase order. The added item will be subject to standard lead-time. Any add item maybe subject to price increases that has become effective between the original order date and the date items were added. An item can be added on to a blanket release if it can be shipped with the original release. If not, add it on to the next blanket release or issue a new order.

STANDARD PACKAGE POLICY

Standard price list items for quick lead time are stocked in standard package quantities. Seller encourages Buyer to purchase these items in standard package quantities whenever possible to minimize effecting the lead time.

PACKING

Seller's prices are based on standard packaging suitable for domestic shipments in the 48 contiguous United States. If special packaging is required by Buyer the packaging must be quoted and the special packaging charges will be invoiced to the Buyer.

PRODUCTION LEADTIME

Delivery dates as set forth on order acknowledgments are approximate. Although Seller will use all reasonable efforts to meet delivery dates, Seller will not be responsible for failure to meet said dates. In no event will Seller be liable for any loss or damage or for any special, incidental or consequential damages to Buyer resulting from failure to deliver within the times specified. Unless otherwise amended and approved in writing, Seller reserves the right to ship up to 5 days in advance of the acknowledged shipping date. Seller reserves the right to make delivery in installments which shall be separately invoiced and paid when due without regard to subsequent deliveries.

PROJECT RESCHEDULE DELAYS

Seller understands that most construction project deliverables are continuously moving targets which results in delays to acceptable jobsite delivery dates. When possible, Buyer should accept delivery of scheduled orders to warehouse for staging to project site. Any Buyer related project delay, resulting in rescheduled shipping date to Seller of more than 20 calendar days from original acknowledged shipment date for the order will incur a 1.5% service change per month.

TRANSPORTATION POLICY

All product prices offered to Buyer in quotations, catalogs and price books do not include freight. Prices are based on North American destinations as FOB and International destinations will be Ex Works MPS Facility. Seller will provide best estimate on freight costs per quotation and again at time of purchase order via freight cost shown as separate line item. The Buyer purchase order shall include freight intentions by specifying either, Prepaid and Added to invoice or Freight Collect. Any purchase order submitted to Seller from the Buyer that does not include freight recommendations, the Sellers order acknowledgement will default to Freight Collect.

Prepaid and Add Shipments: Seller reserves the right to select shipping point, method, route of shipment and the freight company which invoices Seller directly. Seller has negotiated rates with several freight companies in attempt to provide Buyers with competitive freight rates.

Freight Collect Shipments: Buyer selects method, route of shipment, and the freight company which in turn invoices the Buyer directly. Credit will not be allowed for any shipping or freight cost to Buyer if Buyer accepts shipment or product at Seller's factory or warehouse or otherwise supplies its own transportation. Seller shall not be liable for any cartage or storage charges at destination. Title and risk of loss shall pass to the Buyer upon shipment of the products by the Seller.

NON-STANDARD OR SPECIAL ITEMS

Products outlined on the Standard Products price list are built to forecast or for stock and considered standard items. Items built for specific Buyer's requirements, even though outlined in Seller's catalog, are considered non-standard. Seller cannot accept cancellation of non standard items built to Buyers requirements nor will Seller accept return of non standard items. If Seller determines there is a possible defect in material and / or workmanship per below WARRANTY section, Seller may provide a RGA per the below RETURN GOODS section below.

ADJUSTMENTS

Unauthorized deductions by Buyer from its remittance to Seller will not be permitted. Failure to settle Buyer's account may lead to suspension of future shipments to Buyer.

TESTING

Unless otherwise stated in writing, product prices include only Seller's standard test data. Any special testing required by the Buyer shall be invoiced accordingly unless included in the Seller's quotation.

MODIFICATIONS

Seller reserves the right to modify the specifications, materials, or manufacturing methods of products ordered by the Buyer if the modification will not materially affect the quality or performance of the product.

RETURNED GOODS

Product will not be accepted without a Return Goods Authorization (RGA) and associated number. The Return Goods Authorization can be obtained from the Seller's marketing department in Fort Mill, South Carolina by using the RGA Request Form. **A copy of the RGA authorization must be included with the products being returned or delivery will be rejected by MPS receiving personnel.**

Products accepted for return must be in their original, unopened cartons, purchased within the last 12 months, are of current design and manufacture, and in a condition to be resold. Products designed and produced to Buyer's specifications or products not cataloged, or listed as special priced products, or obsolete products cannot be returned for credit.

Products authorized for return must be shipped prepaid to the Seller's destination within 30 days of authorization. Buyer is responsible for providing original invoice information to Seller on items requested for return. No return authorization shall be issued for less than \$100 per line item. All such returns will be subject to a \$50 minimum restocking and handling charge or 25% of the original net value of the products at the time of purchase, whichever is higher, plus original freight charges, in addition to any additional costs to restore the material to a condition to be resold. Material that fails Seller's incoming inspection will be rejected and no credit will be issued. If the Seller determines after the evaluation process that the returned products were a result of defect in material or workmanship, the Seller will credit the returned quantity based on the original purchase price and original shipping charge. If Buyer issues a new purchase order for the replacement products that were deemed defective, Seller will ship replacement quantity as prepaid and must be a single release.

CANCELLATION

Cancellation of part or all of an order is subject to acceptance by Seller's marketing department in Fort Mill, SC. Requests for cancellation must be received a minimum of 7 calendar days before the scheduled ship date. Cancellation of standard products will be allowed only when Buyer pays cancellation charges based on the accumulated expense and commitments made by the Seller to supply the material in accordance with the Buyer's original purchase request. The minimum cancellation charge will be \$50 or 20% of the unshipped value. Special ordered items or items not in the catalog, or listed as special priced, are non-cancelable.

WARRANTY

Seller warrants that the products it manufactures and sells shall be free from defect in material and workmanship for a period of 18 months from date of shipment to Buyer, or 12 months from date of product installation, whichever is shorter. The warranty does not apply to any products that are misused, modified, repaired or otherwise abused by Buyers or others. The warranty is void if the product is not installed by a contractor (dealer) certified by the Seller or if the product installation involves materials other than those provided by the Seller. Seller's sole obligation for breach of warranty shall be to repair or replace (F.O.B. original shipment point) any goods within 30 days of Buyer reporting defect to Seller. All installation and transportation expenses, and all other incidental expenses and damages shall be borne by Buyer. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

LIMITATION OF LIABILITY

IN NO EVENT SHALL SELLER BE LIABLE FOR ANY TYPE OF SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PENAL DAMAGES, WHETHER SUCH DAMAGES ARISE OUT OF OR AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. Such damages shall include, but not limited to, loss of profit or revenues, loss of use of the equipment or associated equipment, costs of substitute equipment, facilities, down time costs, increased construction costs or claims for damages. Seller shall not be liable for any loss, claim, expense or damage caused by, contributed to or arising out of the acts or omissions of Buyer, whether negligent or otherwise.

PATENT INDEMNITY

Seller shall defend any suit or proceeding brought against Buyer based on a claim that any goods of Seller's design furnished to Buyer constitute an infringement of any U.S. patent. Buyer must notify Seller promptly, in writing, of such claim. Seller will not be liable if alleged infringement is the result of the application or use to which such goods are put by Buyer or others if different than Seller's application data.

Buyer agrees to protect Seller and save it harmless from all expense and damages that result from claims or demands that goods manufactured by Seller according to Buyer's design or specification infringe the right, title or interest of any third party because of being so produced. Buyer shall defend Seller in such claims and pay all expenses and damages based on claimed infringement. The foregoing states the entire liability of either party to the other with respect to infringement.

ACCEPTANCE

Buyer shall notify Seller of any error, defect, or shortage of any items received by Buyer, in writing, within 15 calendar days of delivery. Failure to provide Seller with written notice within the prescribed timeframe obligates Buyer to have waived such errors, defects or shortages and to have accepted Buyer's items as delivered.

GOVERNING LAW

The laws of the State of South Carolina shall govern all matters relating to the interpretation and effect of these terms and any authorized changes.