



TERMS & CONDITIONS

APPLICABLE LAW:

These terms and conditions and the contract of purchase and sale to which they relate shall be construed in accordance with and shall be subject to the laws of the Province of Ontario, Canada.

PAYMENTS:

Unless otherwise specified, the terms of payment shall be 30 days net from date of invoice.

TITLE AND RISK:

The title to the goods delivered as a result of this proposal shall remain in the Seller (but shall be at the risk of the Buyer) until the entire purchase price of the goods delivered and accepted by the Buyer shall have been fully paid for in cash. If this proposal, when accepted by the Buyer, specifies that the price is made payable by installments regulated according to particular stages of the work, title to the goods shall remain in the Seller until the full price has been paid and, unless otherwise agreed, the goods have been delivered to and accepted by the Buyer. Installment payments shall not imply any other intention of either the Buyer or the Seller. Fire or other necessary insurance in an amount sufficient to protect the Seller's interest in the goods shall be placed and maintained by the Buyer with loss payable to the Seller as its interest may appear until payment of the whole purchase price of the goods shall have been made in cash. In case of the Buyer's default hereunder for any reason whatsoever, the Buyer shall forfeit all monies already paid on account by it as liquidated damages and the Seller shall have the right of entrance to and the right to take possession of any or all of the goods delivered hereunder wherever found. This shall be in addition to all other rights which the Seller has hereunder by law.

INDEMNITY:

Buyer shall use and shall require its employees to use all safety devices, guards and proper safe operating procedures as set forth in manuals and instruction sheets furnished by the Seller. The Buyer shall not remove or modify any such devices or guards or warning signs. If the Buyer fails to strictly observe each and every one of the obligations set forth in this paragraph with regard to any of the Seller's machinery, the Buyer agrees to indemnify and save harmless from any liability or obligation incurred by the Seller to personnel injured or property damaged directly or indirectly in connection with the operation of such machinery. The Buyer shall notify the Seller promptly, and in any event within thirty (30) days, of any accident or malfunction involving the Seller's machinery which result in personal injury or damage to property and shall cooperate fully with the seller in investigating and determining the cause of such accident or malfunction. In the event that the Buyer fails to give notice to the Seller and so cooperate, the Buyer agrees to indemnify and save Seller harmless from any claims arising from such accident or malfunction.

SERVICE CHARGES:

Should the Buyer request the use of our installation/erection services that have not been specifically provided for and included in the contract price, additional charges will be payable to Seller at its prevailing rates for such services.

PRICES:

All prices are subject to confirmation or revision at the time of order placement. Prices quoted in Seller's proposal will be firm for 30 days, and are based upon shipment FOB Mississauga, Ontario, unless otherwise specified in our quotation.

CANCELLATION:

- a) An order once placed and accepted by Seller can be cancelled only with its written consent and upon terms that will indemnify the Seller against loss on costs incurred and provide a fair profit upon work Seller has performed.
- b) Seller shall have the right to require that the Buyer post adequate security for any and all payments due if a good faith doubt arises as to the Buyer's ability to make prompt payment.
- c) Seller shall have the absolute right to cancel and refuse to complete this order (1) if at any time all terms and conditions governing this order (including any requirement of progress payments) are not strictly complied with by the Buyer. (2) If at any time the Buyer becomes bankrupt or insolvent. (3) If the Buyer fails to post security as required by "(b) above within 15 days after the Seller has requested same. In the event of such a cancellation, the seller shall have the right to indemnification for any or all costs incurred to the date of cancellation in performing the order (including the costs of any engineering studies and/or special patterns) and for the loss of profit resulting from such cancellation, which shall be deemed to be 10% of all costs subject to indemnification. The Seller shall have the right, at its option, to waive its right to indemnification with regard to any item scheduled for completion within (3) days following the date of cancellation and to complete such items and request full payment for same.

DELIVERY:

Shipping dates are approximate and time shall not be the essence of any contract created by the acceptance of this proposal. Shipping dates are dependent upon availability of materials etc. and upon our prompt receipt of all details necessary to execute the Buyer's order. If the purchaser fails to supply needed information, the delivery date will be adjusted accordingly. Seller shall not be liable for loss of any kind resulting from delays or failures to make the promised delivery for any reason including, but not limited to, strikes, fire, natural disasters, pandemics/endemics, Acts of God, Government regulations or any other causes beyond the Seller's control.

INSTALLATION:

Unless otherwise expressly stipulated, the equipment shall be installed by and at the expense of the Buyer with the seller assuming no liability as a result of installs done by any other body other than the Seller.

DRAWINGS:

All drawings furnished with a proposal indicate only the general style, arrangement and approximate dimensions of the equipment. Such drawings do not constitute a warranty that the equipment or their installation will conform exactly to such drawings. At a suitable time after a proposal becomes a contract, the Seller will supply the Buyer with all drawings or other information for installing and operating as Seller determines are necessary and information for ordering such parts as are subject to wear and may require replacement. All drawings, photographs and specifications forming a part of the proposal are to remain the Seller's property and are to be returned upon request. The Buyer agrees for itself and its legal successors not to give, loan, exhibit or sell to any party of interest outside of its own company any drawing, photograph, specification or technical data furnished by the Seller of reproductions of them, and the Buyer shall not use them in any way except in connection with the installation covered by this quotation and for making spares and repairs to the equipment in its own foundries and shops. Seller assumes no responsibility whatsoever and shall not be held liable for any damages which may be incurred by the Buyer through the use of any drawings of the Seller. Seller shall furnish prints of equipment manufactured by others and purchased by Seller only when such prints are readily available and Seller has the legal right to do so.

ACCEPTANCE:

Equipment is to be accepted on Buyer's floor after equipment function (per agreed requirements/scope given by the Buyer and agreed to by the Seller at time of quotation) is demonstrated to the Buyer after on-site installation (only in the event that the Seller is responsible for the installation). If demonstration is waived, regardless of installer, such instructions shall constitute acceptance at Seller's plant without demonstration.

INSTALLATION AND SERVICE:

When the Seller's proposal specifies providing a service engineer to supervise the installation of the equipment in the Buyer's plant, this service will be available for the time required to assure proper functioning of the equipment.

The Buyer must provide a qualified technician to learn the adjustments, and take immediate responsibility for the operation of the machine and the quality of work. Unreasonable delays such as waiting for piece parts or the Buyer's technical personnel, will be subject to invoicing at the normal service rate.

TITLE:

The title and right of possession of this equipment will remain with the seller until full payment has been made. The Buyer agrees to protect and maintain such right and title until complete payment is received.

WARRANTY:

New machinery manufactured by the Seller is warranted to be free from defects in material and workmanship for a period of twelve (12) months from the date of shipment, providing items have had normal and proper usage and are still the property of the original Buyer. Equipment not manufactured by the Seller which is furnished by an outside supplier will be subject to the guarantee terms of the Seller's supplier.

This warranty is made in lieu of all implied warranties, including merchantability. No promise or affirmation of fact (including but not limited to statements regarding capacity or performance of a machine) shall constitute a warranty by the Seller or give rise to any liability or obligation of the Seller.

Seller's obligation under this warranty shall be strictly and exclusively limited to furnishing materials FOB **shipping** point, required for repairing or replacing parts which are determined to be defective on inspection by an authorized representative of the Seller but not to dismantle or reinstate a new part in the place of the one found to be defective. The Seller assumes no responsibility to reimburse repair or replacement costs incurred without its prior written authorization. In no event, whether as a result of breach of contract, warranty test (including negligence) or otherwise shall the Seller or the Seller's suppliers be liable for any consequential, incidental or exemplary damages including, but not limited to, loss of profits or revenues, loss of the use of one's profits or revenues, loss of use of the products, cost of capital, cost of substitute products, facilities, services or replacement power, down-time costs, or claims of the Seller's customers for such damages.

For any manufactured products not installed by the Seller, the Seller assumes no liability for insufficient product quality produced by the Buyer(s) manufacturing process, performance shortcomings, breakdown(s), downtime, failed start up/product acceptance etc.

In the event of manufactured products being installed by anyone other than the Seller, the Buyer accepts all liability related to the receiving and installation of manufactured/supplied products by the Seller, including but not limited to damaged goods, malfunctioning equipment etc.

Any action for a breach of contract arising out of this quotation must be commenced within one (1) year after the cause of action has occurred.

SCOPE CHANGES:

Scope changes originating from the Buyer are to be communicated in writing to the Seller. The Seller may re-quote costs and timing impacts to the Buyer as a result of scope changes. Failure to share scope changes with the Seller prior to equipment delivery and/or installation will be subject to additional costs added to final payment.

CHANGES TO LABOR, MOBILIZATION & SHIPPING COSTS:

Any unforeseen substantial increases as determined by the Seller related to installation and mobilization such as wages, shipping costs for but not limited to containers, mobile mini offices, tool storage containers, flights, hotels etc. may be re-quoted and passed to the Buyer within 30 days of installation or equipment delivery.