



General Sale Terms & Conditions

Last Updated 1/18/2018

1. CONTROLLING TERMS

These General Sale Terms and Conditions (General Terms) are incorporated into, and become a part of, each quote, purchase order, release, work order, sale, invoice, and other agreement, whether expressed in written form, by electronic communication or other format, relating to the products and/or services to be provided by the Seller (collectively referred to as the Quote). Seller agrees to sell to the Buyer only on the condition that the Buyer assents to all of the terms and conditions set forth herein. Shipments by the Seller shall not be deemed acceptance of any provision of the Buyer's purchase order, confirmation, or any other Buyer communication, which is different from, inconsistent with, a modification of or in addition to the terms in this Quote and these General Terms. All prior proposals, negotiations, course of dealings, representations, and agreements, if any, are superseded and merged herein, unless amended in a separate written agreement signed by authorized representatives of the Seller and the Buyer stating that it is intended to amend these Terms and Conditions. These General Terms will apply except to the extent inconsistent with any such amendment. If the Buyer accepts this Quote and/or the Buyer issues a purchase order to the Seller, the Buyer will be deemed to have agreed that these General Terms are incorporated into the contract of sale and any additions to, changes in, modifications of, or revisions of these General Terms which the Buyer proposes or includes in any purchase order or other document or procedure in use by the Buyer will be deemed to have been rejected by the Seller.

2. QUANTITIES AND PRICES

All quantities shown in the Quote are the Seller's good-faith estimate of the product needed to complete the Buyer's project per the plans and specifications reviewed and acknowledged by the Seller. The Seller will provide quantity take-offs as a service to the Buyer, but the Buyer is solely responsible to ensure the accuracy of these good-faith estimates. In addition, the Seller's price is not conditioned on the quantities shown on the Quote and may change based on the final project requirements. The price on the face of the Quote shall expire, unless accepted within fifteen (15) days from the date of the Quote.

3. ORDER MODIFICATION

If the Buyer requests changes to the signed Quote, the delivery date, or any other changes which, in the Seller's judgment, impacts its costs, risks or other matters, then the Buyer and Seller must agree to the changes or the order shall be deemed cancelled in accordance with Section 4. The parties shall have a reasonable time to agree to any changes proposed by the Buyer and agree upon a new delivery date caused by these changes.

4. ORDER CANCELLATION

In the event that the Buyer cancels or is deemed to have cancelled its order as set forth above under Section 3, the Seller shall be entitled to payment for the Seller's work and material to the date of the Buyer's cancellation.

5. GENERAL TOLERANCES AND VARIATIONS; INFORMATION PROVIDED BY OTHERS

In absence of a specific specification, all products shall be subject to tolerances and variations consistent with usages of the trade and regular practices, regardless of exactness of the specification. The Seller shall not be responsible for the correctness, adequacy or consistency of any specifications or other information furnished by the Buyer or other third parties (including, without limitation, the project architect and/or project engineer) regardless of how the specification is communicated.

6. SHIPMENT/RISK OF LOSS

Risk of loss shall be borne by the party responsible for the selection of the carrier. If Seller selects the carrier then risk of loss shall pass upon delivery to the job site location; however, if the Buyer selects the carrier, then risk of loss shall pass to the Buyer upon delivery to the Buyer's carrier. The parties acknowledge that shipping may expose the products to moisture and road salt and agree that the Seller is not responsible for any resulting damage to the products regardless of which party selects the carrier.

7. DELIVERY

The Seller will exercise all reasonable diligence to deliver the products by the date specified but shall not be responsible for any delays due to any cause beyond Seller's reasonable control. If the Buyer (a) requests deferral of shipment of the products that have already been manufactured, and the Seller, in its discretion, agrees to the same, or (b) the Buyer or third parties otherwise fail to provide information or documentation necessary for Seller to proceed with shipment of the products in the ordinary course, the Seller reserves the right to charge the Buyer reasonable storage fees on delayed shipments and, further, the Seller may invoice the Buyer when and as fabrication of the Products is completed, notwithstanding that the Products have not shipped. Storage fees will be invoiced at \$0.05 per square foot per day commencing on the original ship date provided by the Buyer and concluding on the actual ship date. Square footage will be calculated based on the area occupied by the product plus a 12 foot forklift aisle around the perimeter.

8. INSPECTION OF PRODUCTS

The Buyer shall promptly inspect the products upon delivery. It is the buyer's responsibility to count all material at the time of delivery to verify quantities match the Bill of Lading. If there are any material shortages or damage, the Buyer must notify the Seller in writing, within three (3) days of receipt of materials. Acceptance of the products shall constitute a waiver of any error with respect to shortages. The Seller and its agents and insurers shall be allowed a reasonable opportunity to inspect the products due to the Buyer's concerns with conformity with the Quote. The products may not be returned without the Seller's prior consent. The Buyer's failure to notify the Seller in writing by the time periods called for by this Section 8 shall be deemed acceptance of the products, but the Section 11 warranties remain in effect. The Seller will not be responsible for any inspection, testing fees or costs conducted by third parties.

9. DECK PRIMER

The primer is intended to protect the deck for only a short period of exposure in ordinary atmospheric conditions and shall be considered an impermanent and provisional coating. Scratches and abrasions due to dunnage and material handling are unavoidable.

Rusting may occur initially on unpainted edges, and rusting or rust staining may occur across deck sheets if moisture is present. Since rust staining may occur in bundled deck due to moisture containment between sheets, proper handling during shipment, storage and installation is imperative to minimize rusting or rust staining. Loads should be tarped during shipment, and if ground storage is necessary, bundles should be stored off the ground with one end elevated to allow for proper drainage. In all cases, bundles should be protected against condensation with a ventilated waterproof coating. Do not allow water to become trapped in the deck bundles under any circumstances.

Specifying cold rolled steel deck with a primer coat as a final coating is not recommended. If a finish coat is required, a field applied finish coat is recommended. In no case should the prime painted finish be considered a permanent coat. The Seller assumes no responsibility for field painting or touch-up after shipment, handling or site storage. In addition, the Seller assumes no responsibility for compatibility between provided deck finish and the Buyer's use, finish coat and/or fireproofing.

Summit Metal Products, Inc. will not be held responsible for rusting or rust staining on any project and will not accept any charges for field painting or touch up performed as a result of rusting or rust staining.

10. INSTALLATION

The Seller is not involved in the installation of products and shall not be liable to the Buyer for any loss, claim, or damage relating to the improper installation of the products. The Seller shall be given the opportunity to repair any products which do not meet the Seller's warranty (Defective Products), and if the Defective Products have been delivered to the site, the Seller has the right to perform the repairs at the site. The Seller shall have no obligation for costs which could have been avoided had the Seller been given the opportunity to repair. If the Seller fails to timely repair any Defective Products after written notice from the Buyer, then the Buyer shall have the right to conduct reasonable repairs to the Defective Products and charge the Seller for the costs of such reasonable repairs. Nothing herein precludes the Seller from disputing whether or not the products are Defective Products.

11. WARRANTY

The Seller warrants that the goods sold and transferred to the Buyer are free from defects in workmanship and material for a period of one year following date of delivery. Notice of any claimed defect must be given in writing to Seller within three (3) days from the date of delivery. The Seller's obligation under this warranty shall be limited to replacing all or any part of the goods sold hereunder which shall be returned by the Buyer to the Seller's plant freight prepaid and the Seller shall have no liability whatsoever for any incidental or consequential damages. This warranty is expressly in lieu of any and all other warranties expressed or implied, of fitness for a particular purpose and all such other warranties are hereby expressly excluded.

The Seller makes no representation and gives no warranty regarding adherence to or compliance with any state or local code or ordinance of any type or nature, including but not limited to state or local building codes and regulations, which may relate to the products or the use thereof.

12. NO EXPRESS WARRANTY

The Seller makes no other express or implied warranties and expressly disclaims any implied warranty of fitness for a particular purpose. Except as otherwise provided herein, neither the Seller nor the Buyer shall be liable for special, incidental, consequential, or liquidated damages.

13. TERMS OF PAYMENT

The net invoice amount shall be paid in full without setoff or defense within thirty (30) days from date of invoice. The Buyer shall not be allowed retainage. The Buyer is responsible for payment for any sales, use, value added or other tax applicable on purchases that are not exempt under proper exemption certificates delivered by the Buyer. If the Buyer fails to make payments as set forth herein, in a manner that reasonably indicates the Buyer's inability to pay for the products, the Seller is entitled to terminate this Quote and any other orders pending between the parties until and unless the Buyer provides evidence of its financial solvency deemed acceptable to the Seller. The Seller shall have the right to employ an attorney to collect all balances due, and the Buyer agrees to pay all collection costs incurred by the Seller, including its reasonable attorney's fees. The Buyer hereby agrees to provide any and all information necessary to file, perfect, and/or record a security interest, lien and/or bond within five (5) days of a request for such information by the Seller.

14. CREDIT APPROVAL

Performance of work and shipment of the products is subject to approval by the Seller's Credit Department. The Seller may at any time condition its performance upon receipt of advanced payment, acceptable security, or the Buyer's agreement to other reasonable credit-related terms and conditions. The Buyer shall be responsible for payment to the Seller of damages arising out of the Seller's performances to date if the Buyer's failure to provide acceptable assurance of payment results in termination of this Quote. The Buyer represents that by placing its order, it is not insolvent as that term is defined in the Uniform Commercial Code, and, should it become insolvent before delivery of the products, it will notify the Seller. Failure to notify the Seller shall be deemed to constitute a written representation of the Buyer's solvency as of the date of shipment.

15. ENTIRE AGREEMENT; SUCCESSORS

This Quote constitutes the entire and exclusive agreement between the parties; no course of dealing or usage of the trade shall be applicable unless expressly incorporated herein in writing. The terms of this Quote shall be binding on, and inure to the benefit of the Buyer, Seller, and their respective successors and assigns. The Buyer agrees that it may not assign this Quote without the prior written consent of the Seller which consent the Seller shall not unreasonably withhold.

16. CHOICE OF LAW AND VENUE

This agreement shall be governed by the laws of the State of Illinois. The Buyer consents to the exclusive jurisdiction of the state courts of Kane County, Illinois. The Buyer waives any objection based on forum non conveniens or any objection to venue of any such action.