

**INDUSTRIAL SALES COMPANY, INC.**  
**TERMS AND CONDITIONS**

1. The Terms and Conditions of sale set forth herein, constitute the entire agreement between the parties pertaining to the sale of the products quoted or invoiced, or any supplement thereto, and there is no acceptance of verbal or oral understandings between buyer and seller in connection therewith. And any agreement between buyer and seller that varies the Terms and Conditions set forth herein must be issued in writing and signed by an officer of seller or by seller's authorized management.
2. Verbal authorization of quotation, order placement, delivery or product return without signed documentation is acceptance by buyer, and subject to the Terms and Conditions herein.
3. Correspondence, credit application, quotations, purchase order, order acknowledgements, invoices and statements electronically remitted (facsimile or email) constitute acceptance of the Terms and Conditions of this agreement.
4. All of seller's invoices for products shipped or picked up described on the reverse side hereof or attached are payable to the company name as indicated on the invoice.
5. Quotations are not intended to cover all items required for any project and only reflect the items specifically listed at unit prices shown. Any modifications may affect pricing, freight and/or delivery charges. Items quoted, including equal alternates, are subject to engineer/architect approval. All orders quoted or otherwise submitted are subject to the Terms and Conditions herein.
6. Any or all quoted products that may become subject to governmental tariffs of which the manufacturer elects to impose price increases upon, any such price increases will take effect without advance verbal or written notice by seller, and seller reserves the right to implement pricing in effect at the time of shipment.
7. Buyer agrees that prices set forth in seller's invoice or invoices for the products quoted or invoiced, the buyer acknowledges and agrees that prices for products actually accepted by buyer may be increased. In the event buyer cancels any portion of its order for the products quoted, prices for the products actually accepted by the buyer may be increased.
8. In the event buyer orders products or material according to specified measurements or specifications submitted to the seller, seller's purchase or manufacture of the products so ordered in accordance with such measurements and/or specifications shall bind buyer to pay for the same, and seller shall not be responsible for the repair or replacement of any such products.
9. Seller warrants that the material supplied hereunder shall conform to the description stated herein, and that said material shall be merchantable quality, except seller makes, NO WARRANTY OF MERCHANTABILITY WITH RESPECT TO MATERIAL MADE PURSUANT TO BUYER'S SPECIFICATIONS. THERE IS NO WARRANTY THAT MATERIAL SUPPLIED HEREUNDER SHALL BE FIT FOR ANY PARTICULAR PURPOSE NOR IS THERE ANY OTHER WARRANTY, EXPRESS OR IMPLIED, UNLESS SPECIFICALLY PROVIDED HEREUNDER EXCEPT IN CONSUMER TRANSACTIONS.
10. All products sold to buyer hereunder, which are shipped by common carrier, shall be shipped F.O.B. shipping point and buyer shall bear the risk of loss or destruction in regard to any such products from the time of delivery by seller to the F.O.B. shipping point. Also, any loss, injury or destruction of such products subsequent to the delivery of the same to the F.O.B. shipping point by seller, shall not operate in any manner to release buyer from its obligation to pay for such products as provided herein or in seller's invoice, and any renewal or extensions of such obligations shall not release buyer from any of the Terms and Conditions of this agreement.
11. Buyer acknowledges and agrees that it shall have no right to cancel shipments of seller's products in transit to buyer except after obtaining seller's written consent. Further, buyer shall indemnify and hold seller harmless against any and all losses sustained by seller as a result of buyer's cancellation or delay of any delivery of shipment in transit to buyer.
12. Buyer acknowledges and agrees that all orders for seller's products are accepted upon the express understanding that seller shall not be liable to buyer for delays or failure to meet delivery schedules occasioned by any of the following:
  - Prior sales, delivery or changes in availability of materials resulting from delay in awarding of contracts.
  - Strikes, lockouts, other disagreements between management and labor.
  - Delays in transportation.
  - Other causes beyond seller's control, including but not limited to fires, riots, accidents and acts of nature.
  - Acts of any governmental authority, whether compliance therewith on seller's part is voluntary or compulsory.
  - Lack of materials or power due to priorities, allocations or other restrictions, whether imposed by law or by the manufacturer.
13. Buyer's failure to pay for or take delivery of products sold hereunder shall entitle seller without notice to buyer, to withhold future shipments, to cancel shipments already in transit, and to cancel the unfulfilled portion of this contract for the purpose of minimizing seller's damage, and in such event, buyer shall be responsible for all damages suffered by seller as a result of buyer's failure to pay for products sold hereunder.
14. In the event buyer cancels all or a portion of this agreement, without cause, or returns to seller products previously delivered to buyer, buyer shall pay seller a handling and restocking fee equal to 25% of the invoice price of the products returned plus special handling and manufacturer fees, if applicable.
15. Seller's terms of payment are net due 30 days from invoice date or as otherwise agreed upon in writing by seller. In addition to the invoice price for products purchased by buyer hereunder, buyer shall be liable for interest on all sums past due (originating from invoice date) at the rate of 1 1/2% per month (18% per annum).
16. The acceptance by seller of a promissory note and/or installment contract executed by the buyer, covering all or any part of the purchase price for products described within the attached or on the reverse side hereof, of a supplement thereto, shall not constitute payment in whole or in part, but shall merely constitute evidence of such indebtedness to seller.
17. Nothing herein shall be construed to constitute a waiver by seller of the right to assert any proper contractors', mechanics' or materialmen's lien, where such products are installed, and seller reserves the right to claim all such liens permitted by law.
18. In the event, a portion or all of the buyer's account with seller is placed in the hands of an attorney for collection, through bankruptcy, probate, or other judicial proceedings, the buyer agrees to pay reasonable attorney's fees, all costs of suit, and interest at the highest legal rate permissible. Furthermore, both parties acknowledge and agree that the jurisdiction of the account for all legal matters between the business entities and individuals, is to be held exclusively in Johnson County, Kansas should any legal action be deemed necessary by the seller.
19. (A) Every "original contractor" who shall do or perform any work or labor upon, or furnish any material, fixtures, engine, boiler or machinery for any building, erection or improvements upon land, or for repairing the same under or by virtue of any contract, shall provide to the person with whom the contract is made prior to receiving payment in any form of any kind from such person, (a) either at the time of the execution of the contract, (b) when the materials are delivered, (c) when the work is commenced, or (d) delivered with the first invoice, a written notice which shall include the following disclosure language in ten point bold type: **NOTICE TO OWNER: FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMO. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.**  
  
(B) Compliance with subsection (A) of this section shall be a condition precedent to the creation, existence or validity of any mechanic's lien in favor of such original contractor.
20. Any terms contained within a buyer's purchase order shall not be applicable to this transaction and seller hereby rejects any such terms, unless prior written consent is issued by seller.
21. Buyer shall not have the right to assign its rights in this agreement, or any part thereof, without obtaining the written consent of seller.
22. All agreements, when accepted by seller, shall be binding upon the heirs, executors, administrators, successors and assigns of buyer and shall inure to the benefit of seller and its successors and assigns.
23. Any action or proceeding instituted by buyer for seller's breach of this agreement must be commenced within one (1) year after the cause of action has accrued.
24. The failure or refusal of seller to exercise or enforce any right claimed herein, shall not be intended, construed or understood to constitute a waiver of any term, condition, provision or agreement contained herein.
25. This agreement and the rights and obligations of seller and buyer hereunder shall be construed, interpreted and determined by the laws of the State of Kansas without regard for any conflict of laws rules.