



**ENGINEERED  
PRODUCTS**  
A PAPE COMPANY



## **GENERAL TERMS AND CONDITIONS:**

### **A. Agreement**

- a. This quotation is not a contract. It is a good faith estimate of the cost to purchase and install the item(s) quoted based on the information known by Seller on the date hereof. No contract will exist until acceptance of this offer, in the form of a purchase order, is received and accepted by Seller.
- b. Any acceptance of this quotation is limited to these terms and conditions. Inconsistent or additional terms and conditions in Buyer's purchase order will not be binding on Seller, unless explicitly accepted by Seller in writing. No waiver or modification of these terms and conditions shall be effective unless in writing and signed by an authorized representative of each of Buyer and Seller.
- c. This quotation, these terms and conditions, and any addendum hereto shall constitute the complete and exclusive agreement between the parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions, guarantees, or obligations whatsoever, either expressed or implied, other than as herein set forth or provided for shall be binding on either party. This quotation supersedes all prior written and oral negotiations concerning the subject matter hereof.
- d. All orders will be governed by the laws of the State of Oregon, without regard to conflict of laws principles. Any claims arising under any agreement resulting from this quotation shall be brought in the appropriate court in the State of Oregon. Venue for any legal action shall be in Lane County, Oregon. In the event that a suit or action is instituted by Seller against Buyer on account of or in connection with this order, Buyer agrees to pay, in addition to the costs and disbursements provided by law, such sum as the court may award as reasonable attorneys' fees.
- e. Seller shall have the right to withdraw this quotation at any time prior to its acceptance of Buyer's purchase order. Unless stated otherwise, this quotation expires thirty (30) days from date hereof. This quotation should be considered invalid or withdrawn in the event any of these terms and conditions are unacceptable to Buyer.

### **B. Pricing and Payment**

- a. All prices are in U.S. Dollars. All pricing is based upon acceptance of materials within the manufacturer's current lead times. Delay in product acceptance may result in additional costs.
- b. Unless stated otherwise on the face of this quotation, quoted shipping terms are FOB point of manufacture. Shipping method will be specified by Buyer or, if shipping method is not specified, Seller will use an appropriate shipping method.
- c. Full payment is due according to the terms on the face of this quotation, but in no event later than 30 days from the date of invoice. If payment is not made when due, Buyer must pay a late charge of 1½ percent per month of the unpaid balance and any collection costs, including court costs and attorneys' fees.
- d. Risk of loss shall pass to Buyer upon delivery to common carrier FOB point of manufacture. Title will remain with Seller until paid in full by Buyer.
- e. Payment will not be delayed by Buyer based on any delay in permit acceptance if such delay is related to issues outside of Seller's scope of work.
- f. Credit Card Payments: Maximum transaction is \$5,000.00.
- g. No credit will be provided to Buyer for surplus materials, if any, provided by the manufacturer.
- h. Any used material quoted is subject to availability. Used materials are sold "as is" and on a first come-first serve basis.
- i. Pricing for products produced from steel is subject to surcharge. Pricing is based on supplier pricing provided at time of quotation. Any increases in cost of a product due to an increase in steel pricing will be additive and billed on final invoice.
- j. Freight pricing is subject to surcharges for fuel. All incremental fuel surcharges assessed Seller by freight carriers will be additive to the price and billed on final invoice.
- k. Should a conflict exist between Seller-provided specifications and drawings, the specifications shall take precedence unless noted otherwise.
- l. Final design and pricing are subject to site verification. Changes in site conditions may result in modification to design and pricing.

### **C. Installation Services**

- a. Installation of products excluded unless agreed otherwise. Labor pricing if included is based on installation by nonunion labor and non-prevailing wage in a free and clear work area at ambient temperatures. All work to be performed 8am to 5pm unless stated otherwise. Overtime, weekends, statutory holidays and evening work would be at an additive cost.
- b. All installation pricing is based on a continuous phase/mobilization. Phased projects may result in additional cost. Delays due to other trades, obstructions, or unfavorable jobsite conditions including compressing installation schedule may also result in additional costs.
- c. Seller reserves the right to utilize third party subcontract installation contractors.
- d. All lift equipment required for installation is excluded unless agreed otherwise.
- D. Bonds. The price on the face of this quotation excludes any applicable bonding requirement unless otherwise agreed. Bonds required by Buyer may result in additional cost.
- E. Permitting
  - a. Structural and Seismic engineering and calculations, permits, licenses, and interpretation of building codes are the responsibility of Buyer unless expressly included.
  - b. Permits excluded unless stated otherwise. Permit applications when submitted by Seller are on behalf of Buyer. Buyer is responsible for the accuracy of the information provided to Seller, including, but not limited to loads, sizes of loads, floor slab information, fire suppression information and all commodity fire class information. Seller assumes no liability for errors or omissions resulting from information provided by Buyer.
  - c. Fire consultancy by Buyer. All fire suppression systems or upgrades, if required, by Buyer. Modifications to equipment to accommodate fire suppression systems if required may result in additional costs unless agreed otherwise by Seller. Modifications for fire egress, if required, by Buyer.
  - d. It is Buyer's responsibility to ensure that they have adequately evaluated the fire suppression/abatement requirements associated with the proposed purchase as required by applicable federal, state and local standards. Buyer to provide a high pile permit submittal issued by a State Licensed P.E., as required.
  - e. It is Buyer's responsibility to provide all necessary documentation required by any permit authority including but not limited to architectural egress drawings and or Title 24 documentation.
  - f. Seller recommends submitting for permits prior to release of materials to minimize cost associated with changes to design required by permit authorities. Changes to design necessitated by permit authorities or others may result in additional cost.
- F. Buyer's responsibilities
  - a. Unloading of materials to be performed by Buyer. Secure onsite covered storage and staging areas to be provided by Buyer. Buyer is responsible for damage or loss to products due to improper storage.
  - b. Wiping down and cleaning construction dust from products after field assembly is excluded and is the responsibility of Buyer.
  - c. A waste dumpster for packaging materials is to be provided by Buyer at no cost to Seller.
  - d. Metal products may develop minor dents, scratches, oxidation and other blemishes during freight and installation. These blemishes shall not give rise to a claim for damaged or defective materials.
  - e. Buyer to obtain all necessary landlord approvals.
- G. Insurance
  - a. Seller will carry the following insurance for the duration of the work: Commercial General Liability Bodily Injury/Property Damage/ Personal Injury: \$1,000,000.00 each occurrence, total aggregate \$2,000,000.00. Product Completed Operations Aggregate Limit: \$2,000,000.00. Excess/Umbrella Liability: \$10,000,000.00 per occurrence, \$10,000,000.00 aggregate. Certificates of insurance with a blanket additional insured endorsement will be provided at no additional cost. Additional liability limits and other additional endorsements are excluded.
  - b. Insurance for Seller's subcontractors will be limited to \$1,000,000.00 of liability coverage per occurrence with \$1,000,000.00 of General Aggregate Liability Coverage.

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- c. Contracts that require specific insurance certificate language must be reviewed and accepted by Seller's insurance carrier. Seller makes no representation that Seller's insurance carrier will accept language required by Buyer. Specific certificate language will be mutually negotiated prior to Seller's acceptance of any purchase order.
- d. Acceptance of third party provided project insurance by Buyer is subject to Seller's review of the proposed policies/coverage. Seller will not accept a reduction in the contract price for accepting project specific insurance.
- H. Warranty.
  - a. Any warranties for material supplied according to the terms herein are strictly given by the manufacturer only. Seller provides no warranty on used materials, which are supplied "as is." Copies of the manufacturer's warranty will be provided by Seller on request. Seller warrants the labor performed pursuant to this quotation to be free from defects in workmanship for a period of one year from the date the work was completed. THIS WARRANTY IS THE EXCLUSIVE WARRANTY GIVEN BY SELLER AND SUPERSEDES ANY PRIOR, CONTRARY, OR ADDITIONAL REPRESENTATIONS OR WARRANTIES, WHETHER ORAL OR WRITTEN. SELLER HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES OTHERWISE ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.
  - b. Seller's sole liability under the warranties contained herein shall be the repair, rework or replacement of defective work.
  - c. Racking and Shelving Structures: Buyer agrees that it will not modify and or alter the storage system structure as designed and installed without consulting the Engineer of Record and/or seeking written approval from Seller. Buyer agrees to use, repair and maintain products in accordance with the stricter of the manufacturer's recommendations and industry standards (e.g., ANSI MH 16.1 2012).
  - d. Racking and Shelving Materials Only Purchases: Buyer will use and install products in accordance with applicable codes, industry and manufacture's recommendations.
- I. Indemnification. Buyer shall indemnify, defend and hold Seller harmless from any and all claims, liability, loss, damages or expenses, including attorneys' fees, arising out of or resulting from Buyer's breach of its obligations under these terms and conditions, this quotation or any addendum hereto.
- J. Exclusions
  - a. Emergency egress lighting and associated signage is excluded unless stated otherwise.
  - b. Modifications to warehouse lighting, and/or under mezzanine lighting if required, by Buyer.
  - c. All anchors required for installation are "wedge anchors." Epoxy or specialized anchors are excluded unless stated otherwise. Galvanized or polymer shims excluded unless stated otherwise. Proposal includes use of unpainted metal shims to level product to a maximum combined height of 1/4".
  - d. Special inspection fees (anchoring) are excluded unless stated otherwise.
  - e. All specialized footings, pilings or additional foundation reinforcement to support equipment being provided is excluded. Product modification to accommodate floor conditions excluded unless stated otherwise. Buyer is responsible for verifying the integrity and adequacy of the structures (floor/walls etc.) to which products are to be installed.
  - f. Unless otherwise noted the following shall be the responsibility of Buyer: Preparation of site, removal of all obstructions to accept equipment, and cutting, patching and painting of site to prepare for installation.
  - g. Doors: Necessary steel and support structure to mount door tracks and springs by Buyer unless stated otherwise.
  - h. Electrical: All electrical interconnection including primary and low voltage wiring of controls, push buttons, disconnects, motors, photo eyes and limit switches excluded. All installation, supply of wiring and conduit including core drilling of walls and floors excluded. Floor Loops, motion sensors and or remote transmitters are excluded unless stated otherwise.
  - i. Modular offices: Supply and installation of "make-up" air systems excluded. Air conditioners if included are wall mounted and will utilize in warehouse/plant air. Any requirement to supply exterior conditioned air to a modular office is the responsibility of Buyer. Modular offices are supplied with in wall (flex conduit) wiring systems. Installation pricing includes our contracting with a certified electrician to visually inspect in wall wiring and to make all interconnections. All other wiring such as the supply and interconnection of primary power to the building, lighting and HVAC systems is the responsibility of Buyer. Supply and installation of all telecommunication equipment is excluded.
- K. Cancellation and Returns. Normally stocked products are subject to 25% restocking fee. All costs for freight are the obligation of Buyer. All non-stock product returns are subject to charge for Seller's cost plus 10% for overhead. In no event will the amount due Seller exceed the original purchase price.
- L. Limitation of Liability. IN NO EVENT SHALL BUYER BE ENTITLED TO (NOR SELLER LIABLE FOR) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, LIQUIDATED OR CONTINGENT DAMAGES OF ANY KIND, WHETHER ARISING OUT OF (A) THIRD PARTY CLAIMS AGAINST BUYER, OR (B) BREACH OF CONTRACT, TORT, WARRANTY (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY SELLER, OR ANY UNDERTAKINGS, ACTS, OR OMISSIONS RELATING THERETO.
- M. Miscellaneous
  - a. The proposal drawings and/or specifications of any quotation are confidential and represent Seller's significant investment in product design and application and remain the property of Seller.
  - b. These terms and conditions are binding upon and for the benefit of the parties, their successors and assigns.
  - c. Failure to enforce any provision of these terms and conditions shall not constitute a waiver of any term hereof.
  - d. Buyer is herein notified that Seller considers these terms and conditions and any additional terms listed on the face of this quotation or any addendum hereto to be included as an addition to any purchase order subsequently placed by Buyer based upon this quotation. This quotation and all terms and conditions it contains are a part of any notice of acceptance of a purchase order issued to Seller resulting from this quotation.
  - e. The provisions of these terms and conditions are severable, and if any portion of these terms and conditions shall be declared invalid or unenforceable because of contravention of any applicable law, such provision(s) shall be ineffective only to the extent of such prohibition. Whenever possible, each provision of these terms and conditions shall be interpreted in such manner as to be effective and valid under applicable law, but if any portion of these terms and conditions is deemed invalid or unenforceable, the remaining portions shall still be enforceable unless removal of that portion so materially alters the risks and benefits to either party that enforcement would be substantially unfair. In such a case, the parties agree to immediately negotiate a substitute clause to restore each party as closely as possible to the risks and benefits originally assumed.
  - f. Where these terms and conditions conflict with any general terms and conditions listed on any purchase order resulting from this quotation, Seller hereby makes its acceptance of the purchase order conditional on Buyer's acceptance of all terms and conditions in this quotation and agreement that they supersede any additional or conflicting conditions of the purchase order.

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