

PAPCO INDUSTRIES, INC - Terms & Conditions of Sale

DEFINITIONS: PAPCO Industries, Inc. will be referred to as “Seller” and the person or company purchasing as indicated on the front of the Seller’s sales order will be referred to as “Buyer.”

TAXES: The prices stated herein do not include any sales, use, gross income, occupational or similar taxes unless so stated specifically; such taxes will be added to invoice prices in those instances in which the Seller is required to collect them from the Buyer, provided, however, that if the Seller does not collect any such taxes and is later asked by and/or required to pay such to any taxing authority, Buyer will make such payment to Seller or, if requested by Seller, directly to such taxing authority. At Seller’s option, the prices may be increased to reflect any increase in the costs of Seller resulting from state, federal or local legislation. At Seller’s option, the prices may be increased or decreased to reflect any change in the rate charge or classification of any carrier. Freight deductions, if any are indicated on the front of the Seller’s sales order, will be paid upon surrender of the paid freight bill.

TITLE: Regardless of the F.O.B. point designated, title to any products described on the front of the Seller’s sales order and risk of loss or damage thereto shall pass to the Buyer at the warehouse of the Seller, except in those instances in which delivery is made by the Seller’s vehicles. In the event of damage or loss, Seller will cooperate with Buyer in presenting any reasonable claim against the carrier involved.

WARRANTEE: Seller warrants its expansion joints to be constructed of new material and to be free from defects in material and workmanship under normal and proper use. Seller also warrants its products will perform the functions for which they were recommended, provided all pertinent and accurate items of data were submitted by the user. If the expansion joint does not perform as recommended, Seller will repair at Seller’s shop or replace the defective unit. Liability for damages or delay caused by such defective parts or products shall be limited only to repairing or replacing the defective product, not including the cost of removal or installation. There are no other warranties, expressed, statutory or implied including that of merchantability and of fitness. The warranty period is twelve (12) months from the date of the system initial startup or eighteen (18) months after the date of invoice, whichever comes first. The Seller will have no liability for incidental and consequential damages and damages for personal injury and property.

The foregoing is the full extent of the responsibility of the Seller, and, by way of illustration and not limitations, in no event shall the Seller be liable for delay caused by defects in products or services, for consequential damages, or for any charges or expenses of any nature incurred without its written consent.

DRAWINGS: Any specifications, drawings, notes, instructions, engineering notices or technical data coming into the hands or control of the Buyer shall be deemed to be incorporated herein by reference the same as if fully set forth. The Seller shall at all times retain title to all such documents and Buyer shall not disclose such to any party other than Seller or a party duly authorized by Seller. Upon Seller’s request Buyer shall promptly return all such documents to Seller.

DELIVERY: The time for shipment is approximate and is estimated from the date of receipt of order with complete manufacturing information and approval of drawings as may be necessary. The obligation of Seller to sell and deliver or perform services and the obligation of Buyer to furnish specifications for purchase and take the products or services stated on the front of the Seller’s sales order shall be suspended by fire, floods, accidents, acts of God, war or acts of war, strikes, lock-outs, slow-downs, picketing or other labor controversies, sabotage, riots, civil commotions, default or failure of carriers, shortage of labor, inability to obtain materials from regular sources, action or request of any government or governmental authority, or any other happening or contingency beyond the control, and without the fault, of the parties herein referred to whether or not a kind hereinbefore specified, to the extent that such happening or contingency limits or prevents the manufacture, sale or delivery of any products or the performance of any services by the Seller or the purchase or taking thereof by the Buyer, except, however, that notwithstanding the foregoing, the Buyer shall not be excused from accepting and paying for products which are completed or in the process of manufacture at the time. Upon the elimination or cessation of any such happening or contingency the obligation of Seller to sell and deliver or perform services and the obligation of Buyer to purchase and take the products or services shall be reinstated.

If by request of the Buyer with acquiescence by the Seller, shipment is delayed beyond the original delivery date for a reason other than as set forth above in the preceding paragraph, the Buyer will pay a reasonable charge for storage and other expenses caused by the delay, and after the delay is ended, the agreement will be completed at the prices and on the terms and conditions agreed to in the Seller’s sales order. The products contracted for under this agreement cannot be canceled except with the written consent of the Seller and then only with reimbursement for loss to the Seller as agreed upon by the Seller. Seller shall have the right without notice to Buyer to alter or modify the Seller’s design and construction of the products ordered under the agreement and substitute other material where the Seller deems it to be appropriate.

CREDIT: If the Seller shall at any time doubt the Buyer’s financial responsibility, Seller may decline to make shipments under this agreement except upon receipt of cash payment in advance or security satisfactory to Seller in advance. If Buyer fails in any way to fulfill the terms and conditions on the front or the back of the Seller’s sales order Seller may defer further shipments until such default is corrected and may at the option of Seller treat such default as refusal by Buyer to accept further shipments under this agreement.

ASSIGNMENTS: The Buyer may not assign any of the Buyer’s rights under this agreement without the prior written consent of the Seller, which consent shall not be unreasonably withheld.

SEVERABILITY: In the event that any word, phrase, clause, sentence, or other provision hereof shall violate any applicable statute or rule of law in any jurisdiction in which it is used, such provision shall be ineffective to the extent of such violation without invalidating any other provision hereof.

COMPLETE AGREEMENT: The Seller’s sales order constitutes the complete agreement between the Buyer and the Seller with respect to the products mentioned and supersedes all prior or contemporaneous written or oral agreements between the parties.