

ERICO International Corporation
Terms and Conditions of Purchase

1. By accepting this purchase order in writing or by delivering the material ordered, you accept all of the terms and conditions set forth. Formal objection is hereby made to any additional or different terms you might propose in your acceptance.
2. ERICO International Corporation is hereinafter called "Purchaser" and the party with whom this order is placed is hereinafter called "Seller." This order may be used to purchase products, supplies, machinery, equipment and other goods, and may also be used to contract for maintenance, construction work, or other services, both on and off the premises of Purchaser.
3. If a price is set forth on the face of this order by Purchaser, such price shall control, subject to those terms and conditions which follow. In all events (even though a price may be set forth on the face of this order by Purchaser), Seller shall charge Purchaser a price which is not in excess of the lowest prevailing market price for the same or similar items or the lowest price at which Seller is selling such items, and further provided that the price which Seller charges in filling this order shall not be higher than that last charged or quoted to Purchaser for such items (if there has been a charge or quote previously).
4. If Purchaser has inserted a delivery or completion date on the face of this order, Purchaser reserves the right to cancel this order if said date is not met or if, prior to said date, Purchaser in its discretion believes that said date will not be met. In such instance Purchaser shall be free of any liability including but not limited to cancellation charges. If a delivery or completion date is not so specified on the face of this order a reasonable time will be allowed. Time is of the essence of this purchase order.
5. Seller warrants that the items and their production or completion shall not violate any federal, state or local laws, regulations, or orders.
6. Purchaser shall have the right to make from time to time changes, additions, omissions, or alterations in the items or to packing, destinations, specifications, drawings, designs, or to postpone the delivery schedule. Immediately upon such change being ordered, the parties shall undertake to agree to an appropriate adjustment in price, up or down, and/or in the other terms of this purchase order. Such changes and such adjustments must be in writing to be binding upon Purchaser.
7. Purchaser may inspect the items ordered hereunder during their manufacture, construction and/or preparation at reasonable times and shall have the right to inspect such items at the time of their delivery and/or completion. Items furnished hereunder may at any time be rejected for defects or defaults revealed by inspection, analysis or by manufacturing operations or use after delivery even though such items may have previously been inspected and accepted. Such rejected items may be returned to Seller for full refund to Purchaser, including shipping and transportation charges. Purchaser's acceptance of any delayed or defective installment of goods shall not operate as a waiver of similar default as to subsequent installments.
8. Seller expressly warrants that all goods and services covered by this purchase order will conform to the drawings, specifications, data or other description furnished or adopted by Purchaser, will be merchantable, will be free from defects in design, material or workmanship, and will be fit and sufficient for the purpose or use intended by Purchaser. Seller agrees that this warranty shall survive acceptance of the goods and services and will run to Purchaser, its successors, assigns and customers and all users of its products. Said warranty shall be in addition to any warranties of additional scope given to Purchaser by Seller. No exclusion or limitation of any and all warranties, express or implied, and no limitation of liability or damages, other than what is set forth in this purchase order, shall be binding upon Purchaser.
9. Regardless of the F.O.B. point designated on the front hereof, title and risk of loss to and with respect to the items shall remain in Seller until the items in a completed state have been delivered to and accepted by Purchaser or to an agent or consignee duly designated by Purchaser at the location specified on the face hereof. A packing slip must accompany each such shipment and if a shipment is to a consignee or agent of Purchaser a copy of the packing slip shall be forwarded concurrently to Purchaser. If no such packing slip is sent the count or weight by Purchaser, or its agents or consignees, is agreed to be final and binding on Seller with respect to such shipment.
10. Seller shall indemnify and hold Purchaser, its agents, consignees, employees, and representatives harmless from and against all expenses, damages, claims, suits, or liabilities of every kind whatsoever by reason of, arising out of, or in any way connected with, accidents, occurrences, injuries or losses to or of any person or property which may occur before or after acceptance of the completed items by Purchaser, upon or about or in any way due to or resulting from in whole or in part, the preparation, manufacture, construction, completion, sale, delivery, use and/or maintenance of the items, including such as are caused by any subcontractor of Seller and excluding only such as are caused by the negligence of Purchaser, other than where Purchaser's negligence consists of its failure to discover a condition caused or permitted to exist by Seller or any subcontractor.
11. In the event of causes beyond the control of Purchaser, such as fire, flood, strikes, accidents, or transportation difficulties, which would make it unwise in Purchaser's discretion to accept delivery hereunder, Purchaser shall have the option to cancel this purchase order without liability or delay the delivery or completion of all or a part of the items.
12. Seller hereby waives its right to any mechanic's lien or other lien under any applicable statutes or otherwise for work done or materials furnished in connection with items. Seller shall obtain from any subcontractor or materialman prior to the performance of any work on the items or the furnishing of any materials for the items a written waiver satisfactory to Purchaser of its right to any such lien and shall deliver such waiver to Purchaser promptly upon receipt thereof. If at any time there shall be evidence of the existence of any lien or claim Purchaser may use moneys then due or to become due hereunder to discharge such lien or satisfy such claim and credit such amounts against the amounts due or to become due to Seller.
13. If work is to be performed hereunder on premises of Purchaser, Seller represents that it has examined the premises and any specifications or other documents furnished in connection with the items and that it has satisfied itself as to the condition of the premises and site and agrees that no allowance shall be made in respect of any error as to such on the part of Seller.
14. If work is to be performed hereunder on premises of Purchaser, Seller shall at all times keep the premises free from accumulations of waste material or rubbish. At the completion of the items Seller shall leave the premises and the items broom-clean.
15. Any rights or remedies granted to Purchaser in any part of this purchase order shall not be exclusive of, but shall be in addition to, any other rights or remedies granted in another part of this purchase order and any other rights or remedies that Purchaser may have law or in equity in any such instance.
16. Seller may not assign this purchase order, or any right thereunder without the prior written consent of Purchaser. Purchaser shall have the right to assign this purchase order or any right hereunder.
17. This transaction is expressly made conditional on Seller's acceptance of all the terms set forth in this purchase order. If Seller objects to any term of the purchase order, Seller shall so notify Purchaser in writing within seven days, which shall specifically identify such term or condition. Such term or condition will be omitted or modified only with Purchaser's express written consent. Seller expressly agrees that where terms of any other writing, including a quotation, offer, or acknowledgment, conflict with the terms of this purchase order, the terms of this purchase order shall apply.
18. In the event that any word, phrase, clause, sentence, or other provision hereof shall violate any applicable statute, ordinance, 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.
19. Purchaser and Seller expressly agree that the laws of the State of Ohio, without giving effect to the conflicts of law provisions thereof, shall control any and all issues arising out of this transaction.
20. Any and all disputes of whatsoever nature arising out of, relating to, or in any way connected with this agreement, or any breach thereof, shall be submitted for determination in accordance with the then applicable Construction Industry rules of the American Arbitration Association. Any hearings shall be held at Cleveland, Ohio. Any costs of enforcement of any rights by either party including the expense and cost of arbitrators, arbitration, and legal fees, shall be borne by the party against which said rights are enforced. Any award in arbitration shall be enforceable in any court of competent jurisdiction.
21. If either party files a successful action whether in a court of law, the American Arbitration Association, or any other dispute resolution forum, to enforce any provision or agreement contained in this purchase order, or for breach of any covenant or condition, or reasonably incurs any legal fees or expenses for any other reason as a result of any breach of any of the terms or conditions of this purchase order, the breaching party shall pay the prevailing party's legal fees and expenses.