

Terms and Conditions

All sales or purchases of material or equipment by Schaedler Yesco Distribution, Inc. ("Schaedler Yesco") are expressly conditioned upon the terms and conditions set forth below. Any additional or different terms or conditions set forth in any purchase order of the Buyer or in any similar such communication are hereby objected to by Schaedler Yesco and shall not be binding or effective unless expressly assented to in writing by an authorized representative of Schaedler Yesco.

Prices and Terms

Unless otherwise stated, all prices by Schaedler Yesco ("Seller") are subject to change without notice. Prices do not include sales, use, excise, value added or similar taxes and, where applicable, such taxes shall be as a separate item and paid by the Buyer. Unless otherwise noted, all sales are made f.o.b. point of shipment; in all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon the Buyer. Extra labor or mechanical facilities required to unload shall be provided by Buyer without any cost to Seller.

Delivery

Quoted shipment or delivery dates are estimates only. Seller shall not be liable for failure to deliver or for delays in delivery or performance due to causes beyond its reasonable control, acts of God, acts of Buyer, acts of civil or military authority, any legislative, administrative, or executive law, order or requisition of any government, fires, strikes or other labor difficulties, riots and other civil disturbances, delays in its usual source of supply, delays of carrier, any other commercial impracticability or other unavailable contingencies beyond the Seller's control. In no case shall Seller be liable for any consequential or special damages arising from any delay in delivery.

Payment

If, in the judgment of Seller, the financial condition of the Buyer at the time of manufacture or shipment does not justify the terms of payment specified. Seller reserves the right to require full or partial payment before manufacture or shipment and to suspend any further performance until such payment has been received.

Delay in Payment

If payment of Seller's invoice is made after the net due date, Seller reserves the right to charge interest at the rate of 1.5% per month on the unpaid balance.

Buyer's Requirements

Material and equipment are based on Seller's interpretation of Buyer's requirements and are subject to verification by Buyer or its representatives.

Returns

Unless otherwise stated, Buyer may return unused material or equipment in its original packaging within ninety (90) days of purchase. Restocking fees may apply.

Warranties

Material and equipment distributed by Seller are warranted only to the extent of the manufacturer's warranties. Except as to title, Seller gives no warrants, written, oral, implied, or statutory, including warranty of merchantability or of fitness for purpose relating to the material or equipment.

Limitation of Liability

Seller's liability on any claim for loss or damage arising out of this contract or from the performance or breach thereof or connected with the supplying of material or equipment hereunder, or its sale, resale, operation or use, whether based on warranty, contract, negligence or other grounds shall not exceed the purchase price. Seller shall not in any event be liable for incidental, liquidated, special or consequential damages including, but not limited to, loss of profits or revenue, liquidated damages, loss of use of the product or any associated product, cost of capital, cost of substitute products, facilities or services, downtime costs, or claims of customers of the Buyer for such damages.

Cancellation

Buyer may cancel any order upon the written consent of Seller and based upon payment to Seller of reasonable and proper cancellation charges necessary to cover labor expended, material procured and reasonable overhead expenses related thereto.

Acceptance

Material and equipment must not be returned without the advance written consent of Seller. Goods shall be deemed accepted upon receipt. Buyer has a duty to inspect all materials upon delivery and failure to object in writing within thirty (30) days of delivery shall constitute an irrevocable acceptance of the goods and a waiver of any and all claims relating to those goods. Buyer agrees that failure to object to an invoice, in writing, within thirty (30) days from the date of the invoice shall constitute a waiver of any and all defenses to payment of the amounts reflected on the invoice, including interest charges, and that such amounts shall constitute an account stated against Buyer.

Termination

Seller reserves the right to terminate any contract or order upon notice to Buyer and without liability to Seller.

Indemnification

To the fullest extent permitted by law, Buyer agrees to indemnify, hold harmless and defend Seller, its shareholders, employees, representatives, successors and assignees (the “Indemnified Parties”) from and against any and all liability for loss, damage, attorneys' fees or expense which the Indemnified Parties may suffer or for which the Indemnified Parties may be held liable by reason of injury (including death) to any person (including Buyer's employees) or damage to any property arising out of or in any manner connected with performance of the obligations of Buyer pursuant to these Terms, whether or not due, in whole or in part, to any act, omission, negligence or strict liability of the Indemnified Parties, or any of their representatives, employees, subcontractors or third parties, whether known or unknown to Seller and/or Buyer. Buyer may not rely on any statutory protection pursuant to any workers' compensation law as a defense to any of its indemnification obligations hereunder.

One-Year Limitation

Any and all claims brought by Buyer against Seller shall be filed in the state and federal courts having jurisdiction over Dauphin County, Pennsylvania within one (1) year after the date of shipment or it shall be deemed forever waived.

Assignment

Buyer may not assign any contract or order without the advance written consent of Seller. In no event shall any permitted assignment relieve Buyer of its payment or other obligations, but Seller reserves the right to seek payment and recovery from any lawful assignee or person or entity which has assumed the assets or business of Buyer.

Hazardous Business

Material and equipment distributed by Seller has been designed and manufactured for use in standard commercial, industrial and residential applications. If the material or equipment is to be applied in any location which might be of a hazardous nature, such as critical applications where a failure of a single component could cause substantial harm to persons or property, Seller disclaims all responsibility. Any questions should be referred to the manufacturer through Buyer's local office.

Intellectual Property and Indemnification

Seller makes no warranty or representation with regard to any patent, trademark, copyright, or trade secret, relating to or claimed to arise from any product sold to Buyer. Seller will not and does not indemnify or otherwise hold harmless Buyer from any claim of misappropriation or infringement of any patent, trademark, trade dress, trade secret, copyright or other rights relating to any merchandise. Buyer agrees that Buyer will not make any such claim, or seek any such indemnification, and that such a claim or demand by Buyer constitutes a breach of these terms and conditions, and that Buyer shall pay all attorney fees and other court costs incurred by Seller in defending against any such claim or demand, whether or not a legal action is commenced or filed.

Inapplicability of Course of Dealing; Course of Performance

No course of prior dealings or conduct between Seller and Buyer and no usage of trade shall be relevant to impose any liability on Seller or to interpret or supplement any term used herein.

Waiver

The failure of Seller to insist upon the performance of any of the terms or conditions of this contract or to exercise any right hereunder shall not be deemed to be a waiver of such terms, conditions or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right under this contract.

General Terms

Any of the terms and provisions of Buyer's order which are inconsistent with the terms and provisions hereof shall not be binding on Seller and shall not be considered applicable to the sale or shipment of the merchandise referred to herein. Unless Buyer shall notify Seller in writing to the contrary as soon as practicable after receipt of this quotation by Buyer, acceptance of the terms and conditions hereof by Buyer shall be indicated, and, in the absence of such notification, the sale and shipment by Seller of the merchandise covered hereby shall be conclusively deemed to be subject to the terms and conditions herein. A standard form purchase order or similar document shall not constitute written objection to the terms herein. Rather, a written objection must be separately stated, and addressed to "Schaedler Yesco Distribution, Inc, 3982 Paxton Street, Harrisburg, Pennsylvania 17111," and must state with particularity those specific terms to which Buyer objects. In the event this written notice is not timely sent, before shipment or delivery of the product, then Buyer waives any and all rights to object to the terms herein.

Attorney's Fees, Jurisdiction, and Venue

Buyer agrees that making any purchases from Seller constitutes doing business in the Commonwealth of Pennsylvania and that Buyer consents to the personal jurisdiction of the state and federal courts in Pennsylvania. Buyer agrees that the venue to resolve any and all disputes with Seller shall exclusively lie in the state or federal courts situated in Dauphin County, Pennsylvania. Buyer agrees that in the event of any legal action brought by or against Seller, the nonprevailing party shall pay to the prevailing party all costs and expenses incurred in connection with such action, including but not limited to attorney's fees, lien fees, court costs and any other costs of litigation or collection proceedings.