



The Cleveland Plumbing Supply Company Purchase Order Terms and Conditions

This Purchase Order (the "Purchase Order") constitutes an offer by The Cleveland Plumbing Supply Company ("Buyer") to purchase the goods specified upon the terms and conditions, at the price(s) and with the delivery date(s) stated herein, and is not an acceptance of any offer by the seller (the "Seller") to sell. Seller shall indicate its acceptance of this offer by verbal acceptance, by written acceptance, or confirmation, by commencing work on the Purchase Order in any manner, or by delivering the goods or performing the services. This Purchase Order, together with the documents attached hereto or incorporated herein by reference, shall constitute the entire agreement of the parties and may not be modified except by a written change order issued by Buyer. No terms stated by Seller in its proposal or in accepting or acknowledging this Purchase Order shall be binding except as expressly incorporated herein by Buyer; and Seller is hereby notified of Buyer's objection to and reflection of any additional or different terms in Seller's quotation, acknowledgment, invoice or other forms. BUYER'S PURCHASE ORDER IS EXPRESSLY LIMITED TO ACCEPTANCE UPON THE TERMS AND CONDITIONS CONTAINED HEREIN.

1. **Warranty.** Seller warrants that all goods shall be of merchantable quality, free from defects in materials, design and workmanship, shall conform to specifications, samples, drawings and plans, if any, and shall be fit for the particular purposes intended.
2. **Delivery.** Time is of the essence. Delivery must be effected within the time specified on the face of this Purchase Order. If Seller fails to make deliveries at the agreed time, all damages suffered by Buyer and any premium transportation or other costs required to meet the specified delivery schedule will be at the expense of Seller.
3. **Rejection:** Buyer shall have a reasonable opportunity to inspect goods and reject them if they fail to conform to the requirements of this Purchase Order. If goods are rejected, Buyer, at its option and at the expense and risk of Seller, may return rejected goods to Seller or store them until Seller provides instructions for disposal. Payment for goods without reasonable opportunity to inspect the same shall not constitute acceptance.
4. **Assignment.** This Purchase Order shall not be assigned by Seller without Buyer's prior written consent.
5. **Title and Risk-Shipment.** Title and risk of loss with respect to the goods shall remain with Seller until the items in a completed state have been delivered to and accepted by Buyer or an agent or consignee duly designated by Buyer at the location specified on the front hereof. Items which are to be shipped shall be shipped F.O.B. Destination, Freight Prepaid, unless otherwise specified by Buyer. A packing slip must accompany each such shipment. If a shipment is to a consignee or agent of Buyer, a copy of the packing slip shall be forwarded concurrently to Buyer. If no packing slip is sent, the count or weight reported by Buyer or its agent or consignee is agreed to be final and binding on Seller with respect to such shipment. Buyer shall have a reasonable opportunity to fully inspect all goods delivered to Buyer. Buyer shall have the right to reject any goods that contain concealed defects.

6. **Suspension or Termination:** Buyer, for its convenience, shall have the right to suspend or terminate Seller's work hereunder, or any part thereof, including delivery, upon notice to Seller. Seller shall promptly comply with Buyer's instructions to minimize the cost of Buyer. In the event of suspension for convenience, Seller shall be entitled to recover only its uncompensated actual direct cost resulting from any suspension. In the event of termination for convenience, Seller shall be entitled to recover only its uncompensated actual direct costs incurred prior to the date of Buyer's termination, plus those actual direct costs arising from Buyer's termination, provided that in no event shall the total price paid by the Buyer exceed the Price(s) specified in this Purchase Order. Any cost claimed by Seller under this Article shall be subject to the audit and approval of Buyer. Upon termination the goods shall become the property of Buyer in their then state of completion.

7. **Taxes.** Any applicable federal, state or local sales, use or transportation taxes and any other present or future tax that may apply to the manufacture, sale or transportation of goods and services is included in the Purchase Order price and shall be paid by Seller.

8. **Limitation of Liability.** In no event shall Buyer be responsible for any consequential damages, incidental damages, or other damages of any kind, including, but not limited to, Seller's loss of actual or anticipated profits arising out of, or resulting from, this Purchase Order or from the performance, suspension, termination or breach thereof.

9. **Place of Contract and Exclusive Jurisdiction.** The validity, interpretation and performance of the Order shall be governed by the laws of the State of Ohio. Seller and Buyer irrevocably consent and agree that any dispute arising out of or in connection with the sale of any goods by Seller to Buyer shall be subject to the exclusive jurisdiction of any state and federal court situated in Cuyahoga County, Ohio.

10. **Indemnification.** Seller agrees to protect, indemnify, and save harmless Buyer from any loss, cost, damage or expense, including attorneys' fees, of any nature including, but not limited to any claim arising out of, or attributable to, the goods supplied by Seller hereunder, including, without limitation, defects in design, materials, workmanship or manufacture, except where such loss, cost, damage or expense results from the sole negligence of Buyer.

11. **Waiver.** Buyer's waiver of any breach by Seller of any of the provisions of this Purchase Order shall not constitute a waiver of any other breach of the same or any other provision. Buyer's right and remedies under any provision of the Purchase Order shall be in addition to and not in substitution or limitation of any other rights or remedies available to Buyer under applicable law.