

MOHAWK INDUSTRIES, INC.
TERMS AND CONDITIONS OF PURCHASE

ACKNOWLEDGEMENT: Purchaser may amend these terms from time to time without notice. Seller's acknowledgment on standard forms, containing terms and conditions differing from those terms set forth herein, shall not indicate any intention to vary, add to or detract from the terms and conditions hereof, and Purchaser specifically rejects such differing terms and conditions. No terms and conditions other than the terms and conditions set forth in this order shall be binding upon Purchaser unless Purchaser indicates its acceptance in writing.

PAYMENT/SETOFF: Purchaser has the right to delay payment to Seller, without loss of discount, if any, and without breaching any term contained herein. Such remedy shall not constitute any waiver of Purchaser's additional rights or remedies against Seller in the case of late delivery. Payment terms are net sixty (60) days. Purchaser may set off any amount owed from Purchaser to Seller against any amount which may be due and payable from Seller to Purchaser.

DELIVERY: Unless otherwise agreed to by the parties, all purchases are FOB Purchaser's designated destination. There shall be no extra charges, including charges for boxing and cartage, unless Purchaser agrees to such charges in writing.

CHANGES: No change, modification or extension of this order shall be effective against Purchaser unless it is made in a writing making specific reference to this purchase order and is signed by an authorized representative of Purchaser. Purchaser reserves the right to make changes to this order in whole or in part, or to cancel such order. No additional charges, fees or penalties shall be allowed unless Purchaser agrees to such charges, fees or penalties in writing. Upon such cancellation, Seller shall immediately discontinue performance. **IN NO EVENT SHALL PURCHASER BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS AS A RESULT OF CANCELLATION OF ALL OR PART OF ANY PURCHASE ORDER, WHETHER BASED IN TORT, CONTRACT OR ANY OTHER THEORY AND REGARDLESS OF WHETHER PURCHASER WAS INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.**

DELAYS: Time of delivery is of the essence. Seller shall notify Purchaser promptly as to any delays and of any actual or potential work stoppage which is delaying or threatens to delay the timely fulfillment of this order. If prompt notification is provided to Purchaser, it may, at its option, either approve a revised delivery schedule or may terminate the order without liability to Seller on account thereof.

ALLOCATION: In the event of a partial failure of Seller's sources of supply of products or items purchased hereunder, Seller will first meet all of Purchaser's requirements hereunder prior to any allocation among customers under Section 2-615 of the Uniform Commercial Code.

WARRANTY: Seller warrants that the articles and work supplied under this order will be in full conformity with the specifications, drawings or samples submitted by Purchaser; will be fit and sufficient for the purpose intended; will be merchantable, of good quality and free from defects in material and workmanship; and will conform with applicable governmental standards, rules and regulations, if any. At Purchaser's option, Seller will, without expense to Purchaser, repair, replace or accept return for full credit for any nonconforming or defective goods and shall reimburse Purchaser for all reasonable costs and damages incurred by Purchaser as a direct result of such nonconformance or defect.

Seller specifically agrees to indemnify, defend and save Purchaser, its successors and/or assigns harmless from any and all demands, claims (founded or unfounded), losses, suits, liabilities and expenses (including, but not limited to, attorney fees) for personal injury, death, property damage, or other harm arising out of an actual or alleged defect in goods.

Seller further warrants that the products, goods or articles furnished pursuant to this order will not infringe upon any patent, trademark, or any other intellectual property right. Seller shall indemnify, protect and hold harmless Purchaser, its successors and/or assigns, its customers and/or the users of said products, goods or articles against all claims (founded or unfounded), losses, damages, costs, expenses and liabilities (including, but not limited to, attorney fees) involving actual or alleged infringement of any patent, trademark or other intellectual property or proprietary right of any other person or entity.

FAIR LABOR STANDARDS ACT OF 1938: Seller warrants that it complies with the Fair Labor Standards Act of 1938, as amended from time to time, as well as orders and regulations promulgated thereunder; and Seller agrees that the furnishing of products, goods, articles or services, as well as the issuance of invoices for the same, shall be a certification of such compliance with respect to goods and services referenced in Seller's invoices.

UNPATENTED PROCESSES: In the event that Seller discloses any unpatented method, processes or information concerning the product sold, it shall be considered to be a part of the product sold and included in the selling price, unless Seller clearly expresses otherwise in writing at the time of sale or prior thereto and the same is thoroughly understood and accepted by Purchaser in writing. Seller specifically waives any right to assert any claim for any relief and/or recovery based upon Purchaser's actual or alleged use of such methods, processes or information.

INSURANCE/LIABILITY: If Seller performs any services for Purchaser on Purchaser's premises, Seller agrees that it is solely and independently responsible for the direction, supervision and control of its employees, subcontractors and for any other persons or firms that Seller engages to assist in the completion and performance of this order. Seller shall maintain adequate safeguards and shall use reasonable care to protect Purchaser's employees, invitees and property on or near the premises. Furthermore, Seller shall comply with all federal, state and local laws at all times. Seller shall maintain the following levels of insurance coverage with a reputable and financially sound insurance carrier: (a) workers' compensation insurance as required by applicable law; (b) employer's liability insurance with limits not less than \$1 million; (c) commercial general liability, including Products and Completed Operations and Contractual Liability, with a minimum combined single limit of \$2 million per occurrence; and (d) Excess Liability with limits not less than \$5 million. Purchaser shall be named an additional insured under such policies to the extent its interests may appear. Seller will provide Purchaser an insurance certificate from its insurance carriers for each of the required foregoing insurance coverages. In the event that Purchaser's property is in the possession of Seller, Seller assumes full responsibility for such property while it is in Seller's possession and shall insure such property accordingly.

BANKRUPTCY: In the event of bankruptcy or insolvency of Seller, either voluntarily or in the case of a receiver having been appointed for the benefit of creditors, Purchaser may elect to terminate this order herewith, without any liability to Seller except for deliveries previously made for goods covered by the order then completed and subsequently delivered in accordance with the terms of this order.

CONFIDENTIALITY/NO PUBLICITY: All data and other information obtained by Seller from Purchaser in connection with this purchase order shall be held in strict confidence by Seller and used solely for the purposes originally intended in connection with this purchase order. Seller shall treat such data, information and resulting work product with the same degree of care and confidence that it uses to protect its own proprietary or confidential information (but not less than a reasonable standard of care) and shall ensure that each of its employees to whom such data, information or work product is known is held to a similar standard. Seller shall not use Purchaser's name in advertising or publicity of any kind without Purchaser's prior express written consent.

GOVERNING LAW: This order shall be governed in all respect by the laws of the State of Georgia, without regard to its conflict of laws principles, and all actions commenced pursuant hereto shall be brought in a court of competent jurisdiction.

INTERPRETATION: In the interpretation and construction of this Agreement, the parties acknowledge that the terms of this Agreement reflect extensive negotiations between the parties and that this Agreement shall not be deemed, for the purpose of construction and interpretation, to have been drafted by either party hereto.