

# Greene Machine & Manufacturing

## TERMS AND CONDITIONS OF SALE

1. **ACCEPTANCE.** This purchase transaction will not constitute a contract, actual and/or implied, until Purchaser's purchase order is accepted by the Seller in writing. Quotation prices will only be maintained if the Purchaser orders the material within thirty (30) days of the date of the Quotation and the material is shipped within six (6) months of the date of the Quotation. Thereafter, prices are subject to increase by the Seller. The terms and conditions contained herein are the only terms upon which the Seller will accept orders. Any additional or contrary terms of the Purchaser are hereby rejected, unless specifically agreed to by the Seller in writing.
2. **TITLE.** Upon request of Seller, Purchaser hereby agrees to execute any and all documents, including security agreements and/or financing statements, which may be necessary in order for Seller to perfect and maintain a security interest in and to said goods under the applicable provisions of the Georgia Uniform Commercial Code or the Uniform Commercial Code of any other applicable jurisdiction, until the price of the material is fully paid.
3. **TERMS OF PAYMENT.** All payments due to seller hereunder shall be promptly paid as agreed. Unless otherwise specified in the quotation, the terms of payment shall be net thirty (30) days. A charge of 1-1/2% interest shall be added per month on all overdue invoices. In the event that suit shall become necessary to institute collection, Purchaser shall be responsible for reasonable attorneys' fees and legal costs, as well as 18% interest from the date the original amount was due. In the event that Purchaser requests that shipment and installation of the material be delayed beyond the later of six (6) months after the date of the Quotation or the agreed upon shipment date, if any, the Seller may invoice the Purchaser for the full sales price of the material, payable net thirty (30) days on the original shipping date, and the Seller may charge the Purchaser for the costs of storing the material until shipment, whether such storage is on Seller's property or on the property of a third party.
4. **TAXES.** Any taxes which the Seller may be required to pay or collect, under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption or transportation of any of the goods covered hereby, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of Purchaser who shall promptly pay the amount thereof to the Seller upon demand.
5. **CREDIT APPROVAL.** Shipments and delivery shall at all times be subject to the approval of Seller's Accounting Department. Seller shall have the right to refuse to make shipments prior to receipt of payment if in its sole judgment Seller shall so determine.
6. **DELIVERY AND FREIGHT.** Unless otherwise specified herein, all shipments made hereunder shall be f.o.b. Macon, GA. Purchaser hereby accepts the responsibility for any delays incurred in shipment for any reason whatsoever and authorizes Seller, as Purchaser's agent, to select the common carrier used for shipments. Purchaser agrees that Seller shall not be liable for routing instructions, selection of carrier by Seller or any failure to perform on the part of such common carrier.
7. **NOTICE OF INTENT TO FILE LIEN.** If a mechanics' lien may be filed for invoices for goods covered by this quotation, Purchaser is hereby notified that Seller intends to file such mechanics' lien on the premises where such goods were used, unless such invoices are paid according to their terms.
8. **DELAYS.** Seller shall be excused for any delay in performance due to Acts of God, war, riot, embargoes, acts of civil or military authorities, fires, floods, accidents, quarantines, restrictions, mill conditions, strikes, differences with workmen, delays in transportation, unloading, routing, shortage of trucks, cars, fuel, labor, or materials or on account of extra work, or for any cause beyond the reasonable control of Seller. Seller shall not be obligated to honor any back charges of Purchasers for any reason whatsoever.
9. **LIMITED WARRANTY.** All material manufactured by Seller is warranted for a period of one (1) year after date of shipment against defects in materials or workmanship as a result of manufacture. Should such a defect occur within that time and it is clearly shown that such defect was not due to or caused by misuse or abuse of Purchaser in handling, operating or maintaining the material, installation of material by other than Seller, failure to exercise due care in the protection of material during periods of idleness or storage, or for any other reason not directly related to manufacture, Seller will, at its option, repair or replace such defective parts f.o.b. its factory. Seller reserves the right to inspect all defective material, before making any adjustments. Seller will not be responsible for any design defects or other performance deficiencies contained in plans and specifications provided by the Purchaser or third parties. This Warranty is made direct to purchasers of Seller's material and to no other person or persons. All component items not manufactured by Seller included in this quotation are subject only to the terms and conditions of original manufacturer's guarantee, if any, and such manufacturer's guarantee is, to the extent permissible, assigned to the Purchaser. **Labor costs are not included other than those' costs incurred by Seller at its facility. SELLER SPECIFICALLY MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER NEITHER ASSUMES, NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT, ANY WARRANTY NOT SPECIFICALLY PROVIDED HEREIN. ALL OTHER EXPRESS AND IMPLIED WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.**
10. **DAMAGES AND RISK OF LOSS. SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THE SALE OF MATERIAL UNDER THIS CONTRACT, A BREACH OF THE WARRANTY PROVIDED HEREIN, OR ANY USE OR MISUSE OF THE MATERIAL, OR ANY ACT OR OMISSION ON THE PART OF SELLER.** Upon and after shipment of any goods covered by this order, Purchaser shall be deemed an insurer thereof and shall be responsible for the safe keeping of such goods and liable for and indemnify and hold Seller harmless for damage, theft, loss or waste of goods so furnished. Purchaser shall carry such insurance on such goods as is necessary to adequately protect Seller hereunder.

11. BREACH OF TERMS. In addition to Seller's rights hereunder, in the event that the contract resulting from this offer is breached by Purchaser, Seller reserves the right to cancel this contract in whole or in part and recover all loss, damage and expense caused by such breach and, in addition, to pursue any and all remedies either in law or in equity, it may have as a result of such breach by Purchaser.
12. REMEDIES. The remedies herein reserved by Seller shall be cumulative and additional to any other or further remedies provided in law or in equity. No waiver by Seller of any breach by Purchaser of any of the terms and conditions hereof shall constitute a waiver by Seller of any other breach or waiver of such terms and conditions. A failure or a delay by Seller in exercising any right, power or privilege hereunder will not operate as a waiver thereof, nor will a single or partial exercise thereof preclude any other or further exercise of same.
13. BANKRUPTCY OR INSOLVENCY BY PURCHASER. If any proceedings are instituted by or against Purchaser under any insolvency or bankruptcy act or a receiver be appointed or ordered to dispose of Purchaser's business or property or if Purchaser makes an assignment or conveyance for the benefit of creditors or if the contract resulting from acceptance of this offer be breached by Purchaser, thereupon and forthwith, all right, title and interest in and to such goods shall automatically revert to and remain in Seller.
14. GOVERNING LAW. This transaction is to be construed according to the laws of the State of Georgia. Purchaser hereby consents to the exclusive jurisdiction of the courts of the State of Georgia in BIBB County, Georgia, and the United States District Court for the Middle District of Georgia for purposes of any suit, action or other proceeding arising out of this transaction. The parties waive the right to trial by jury. At the sole option of Seller, any and all claims, demands, damages and causes of action shall be subject to mandatory and binding arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association and the award of the arbitrator shall be final and binding. The award may be entered as a judgment in any court of competent jurisdiction.
15. NON-ASSIGNMENT. Purchaser shall not assign this contract without Seller's written consent. Any such attempt at assignment without such written consent of Seller shall be wholly void for all purposes.
16. DIVISIBILITY. If any provision or part of these terms and conditions shall be held invalid or unenforceable, the remainder of such terms and conditions shall nevertheless be deemed valid and binding upon the parties hereto.
17. ENTIRE AGREEMENT OF THE PARTIES. The Contract resulting from acceptance of this offer contains the entire agreement between the parties and no representations, statements or executory agreements hereinafter made shall be binding unless in writing and signed by the parties hereto.
18. MATERIAL COSTS. Purchaser understands and agrees that Seller's price is based on the surcharge rates and other associated raw material costs identified in this Quotation, which have been provided to Seller as of the date of this Quotation. If raw material costs are not identified in this Quotation, then the raw material costs shall be such amount as quoted to Seller as of the date of this Quotation. Purchaser understands and agrees that in the event steel prices increase, at the time Seller executes a Purchase Order with its material supplier after the review and approval of detail/shop drawings, in an amount that exceeds 2.5% of the costs stated in this Quotation, the price set forth in this Quotation shall be equitably adjusted in the full amount of the price increase, plus 0% for overhead and profit. In addition, Seller shall not be responsible for delays in delivery to Purchaser resulting from delays in delivery from Seller's raw material suppliers. Purchaser agrees that this clause shall become a binding part of any written contract or agreement executed by the parties relating to the work. Purchaser's acceptance of this Quotation and/or Seller's ordering of material in connection with this Quotation shall signify that Purchaser accepts this clause, and agrees to all of the terms and conditions set forth herein.