



TERMS & CONDITIONS OF CREDIT & SALE

All sales by J.H. Botts, LLC are made subject to the following terms and conditions. J.H. Botts, LLC expressly rejects any different or additional terms or conditions contained in any documents submitted by Buyer. J.H. Botts, LLC acceptance of any purchase order and/or sale of any goods is expressly made conditional on Buyer's assent to these terms and conditions.

1. All proposals, negotiations, and representations, if any, regarding the transaction and made in writing prior to the date of an order are merged herein. The Seller makes no representations or warranties concerning this proposal except such as are expressly contained herein, and this document may not be changed or modified.
2. **PRICES** – All prices whether herein named or heretofore quoted or proposed, shall be adjusted to the Seller's prices in effect at the time of shipment, and are FOB our plant, Joliet, IL, unless otherwise stated.
3. **TOOLING** – Any tooling charge included in any order shall cover the expense of designing and manufacturing tooling for the production of item(s) on the first order. Such tooling shall be maintained for production of the item(s) on subsequent or repeat orders or for a period not longer than one (1) year from date of shipment of last production order. Title to all such tooling shall remain with J.H. BOTT'S, LLC.
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 or consumption of any of the material covered hereby, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Buyer, who shall promptly pay the amount thereof to the Seller upon demand.
5. **DELAY** – The 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, quarantine restrictions, strikes, differences with workmen, plant conditions, delays in transportation, shortage of cars, fuel, labor, or materials, or any circumstances or cause beyond the control of the Seller in the reasonable conduct of its business.
6. **INSPECTION** – The Buyer may inspect, or provide for inspection, at the place of manufacture. Such inspection shall be conducted so as not to interfere unreasonably with the manufacturer's operations, and subsequent approval or rejection shall be made before shipment of the material. Notwithstanding the foregoing, if, upon receipt of such material by the Buyer, the same shall appear not to conform to any contract resulting from an order between the Buyer and the Seller the Buyer shall immediately notify the Seller of such condition and afford the Seller a reasonable opportunity to inspect the material.
7. **PRICING, FREIGHT DISCREPANCIES AND RETURNED MATERIAL** – Questions concerning pricing or freight discrepancies must be made within ten (10) days of receipt of shipment. Contact your salesperson who took the order. In no case may material be returned without the Seller's prior written permission. Goods returned without written permission will not be accepted and could result in additional costs to the customer. Goods must be packaged properly and in resale condition.
8. **EXCLUSION OF WARRANTIES** – THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PURPOSE ARE EXCLUDED FROM ANY CONTRACT RESULTING FROM AN ORDER. THERE ARE NO EXPRESS WARRANTIES AS TO THE MATERIAL FURNISHED HEREUNDER UNLESS MADE IN WRITING AND SIGNED BY AN OFFICER OF SELLER.
9. **BUYER'S REMEDIES** – If the material furnished to the Buyer shall be proven defective, whether due to Seller's negligent acts or omissions or otherwise, to conform to any contract resulting from an order or to any express or implied warranty, during a period not to exceed thirty (30) days from the date of shipment, the Seller shall replace such non-conforming material to the original point of delivery and shall furnish instruction for its disposition. Any transportation charges involved in such disposition shall be for the Seller's account. The Buyer's exclusive and sole remedy on account or in respect of the furnishing of material that shall be proven defective, whether due to Seller's negligent acts or omissions, or otherwise, to conform to any contract, resulting from an order or to any express or implied warranty, during a period not to exceed thirty (30) days from date of shipment, shall be to secure replacement thereof as aforesaid. The Seller shall not in any event be liable for the cost of any labor expended on any such material or for any special, direct, indirect, incidental or consequential damage to anyone by reason of the fact that such material does not conform to any contract resulting from an order or to any express or implied warranty.
10. **PERMISSIBLE VARIATIONS, STANDARDS & TOLERANCES** – Except in the particulars specified by Buyer and expressly agreed to in writing by Seller, all material shall be produced in accordance with Seller's standard practices. All material, including that produced to meet an exact specification, shall be subject to tolerances and variations consistent with usages of the trade and regular industry practices concerning: dimension, weight, straightness, section, composition and mechanical properties; normal variations in surface, internal conditions and quality; deviations from tolerances and variations consistent with practical testing and inspection methods. Orders will be considered complete upon shipment of a reasonable quantity of ten (10) percent over or under the amount specified in the order when it is impractical to produce the exact quantity ordered.
11. **PATENTS** – The Buyer shall indemnify the Seller against any judgment for damages and costs which may be rendered against the Seller in any suit brought on account of the alleged infringement of any United States patent by any product supplied by the Seller made in accordance with materials, designs or specifications furnished or designed by the Buyer, provided that prompt written notice be given to the Buyer of the bringing of the suit and than an opportunity be given to the Buyer to defend it.
12. **CREDIT APPROVAL** – Shipments, deliveries and performance of work shall at all times be subject to the approval of the Seller's Credit Department. The Seller may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to such Department.
13. **JOB INFORMATION** – Specific information pertaining to a purchase order may be required prior to supplying material. This includes the name, address and phone number of the property owner and the general contractor, the location of the project, State or Federal ID numbers and a copy of the payment and performance bond.
14. **TERMS OF PAYMENT** – Subject to the provisions of CREDIT APPROVAL above, terms of payment are net 30 days and shall be effective from date of invoice. If an account becomes 60 days past due, no further credit may be granted without payment of past due portion. The Seller may charge interest at the rate of 18% per annum on all overdue invoices.
15. **LEGAL PROCEEDINGS AND INTEREST** – The parties agree that the costs of any legal proceedings brought by Seller against any Buyer for nonpayment of invoices, including filing fees, court costs and attorney fees, shall be the responsibility of the Buyer. Seller will not waive or relinquish the right to file or maintain a mechanic's lien or claim against the buildings or grounds at which the material purchased are to be supplied or delivered. Interest will be charged on all past due amounts at 18% per annum.
16. **COMPLIANCE WITH LAWS** – The Seller intends to comply with all laws applicable to its performance or any contract resulting from an order.
17. **DISPUTE RESOLUTION** – At Seller's election, and in its sole discretion, any controversy or claim arising out of or relating to the sale of the subject goods or the performance or breach of this agreement shall be submitted to final and binding arbitration in accordance with the then current Construction Industry Rules of the American Arbitration Association. In the event Seller elects arbitration of a claim or dispute, judgment shall be entered on any award entered thereon. The arbitration provisions contained herein shall survive the termination or expiration of an order or performance or breach thereof. If Seller does not select arbitration, all disputes shall be submitted to court process. At Seller's election and sole discretion, the venue for any dispute resolution proceeding, whether arbitration or court litigation is elected by Seller, shall be Joliet, IL.
18. **MISCELLANEOUS** – If any part of the movement of the material involves use of a motor carrier, Seller intends to secure equipment from the motor carrier having the lowest rate; but if such equipment is not reasonably available, Seller reserves the right to move the material by any other motor carrier having available necessary equipment. When delivery terms are other than FOB our plant, all means of transportation and routing shall be subject to the control of the Seller. If an order is accepted and the Buyer's order form is used for the purpose, it is expressly understood and agreed that the terms and conditions herein set forth shall prevail insofar as the same may in any way conflict with the terms and conditions set forth in such order form, and the issuance of such order by the Buyer shall be deemed to note the Buyer's assent to the foregoing.
19. **NON-WAIVER BY SELLER** – Waiver by the Seller of a breach of any of the terms and conditions of any contract resulting from an order shall not be construed as a waiver of any other breach.
20. **ACCEPTANCE OF PURCHASE ORDERS** – ANY PURCHASE ORDER PURSUANT TO ANY QUOTATION OR PROPOSAL SHALL NOT RESULT IN A CONTRACT UNTIL IT IS ACCEPTED AND ACKNOWLEDGED BY THE SELLER'S OFFICE AT Joliet, IL.