

Gregory Industries Terms and Conditions of Sale

1. These terms and conditions ("TCA") shall, along with the quantities and price reflected in any material quote or order ("Quote") or ("Order"), constitute the complete understanding between Gregory Industries, Inc. ("Gregory") and Purchaser and shall supersede any and all prior terms and conditions, negotiations or other written and oral agreements. Unless specifically noted otherwise, in the event of any ambiguity between this TCA and any Order or Quote, the TCA shall govern.
2. This TCA shall be deemed accepted and agreed upon in full upon either the written acceptance of the TCA, the receipt and acceptance of any goods delivered pursuant to the TCA or the payment for any goods shipped under the TCA whichever is the first to occur.
3. Gregory hereby excludes, rejects and disavows any and all non-conforming or differing terms, conditions or qualifications contained within any Purchaser order, quote or any other form of confirmatory memorandum, regardless of when or in what order such non-conforming or differing terms were delivered or offered to Gregory.
4. Each and every term set forth herein shall be deemed material and germane to the transaction. This TCA and any Order or Quote may not be modified by Purchaser in any respect and may only be modified by a writing signed by Gregory. This TCA and any Quote or Order shall not be subject to either oral modifications or modification by conduct.
5. All payments are due within 30 days of the date of invoice ("Net 30") unless extended terms are agreed upon in a writing signed by a Gregory authorized representative. All payments beyond Net 30 shall be subject to compounding interest charges of .75%/month. Gregory reserves the right to suspend all performance if payment is later than Net 30 and also reserves the right to accept late payments at its sole discretion. No acceptance of any payment later than Net 30 shall be deemed to waive any right or future rights that Gregory may otherwise have to cancel or suspend its future performance.
6. Any Quote shall expire and be deemed revoked 30 calendar days after delivery of the Quote, unless otherwise specified, if there is no act of acceptance as such is defined in paragraph 2 herein. Delivery shall be deemed made upon the transmission by Gregory, by any means, of a Quote.
7. Any Quote which is delivered to Gregory and accepted by Gregory may only be changed or altered with the express written consent of Gregory.
8. All prices quoted herein are subject to change at the sole discretion of Gregory based upon the prevailing steel and related supplies markets. Gregory shall provide purchaser three (3) business day's written notice of any such price change.
9. This agreement shall be deemed made in Stark County, Ohio and any dispute herein shall be governed by the laws of the state of Ohio and the venue for any action or proceeding arising in any respect between Gregory and Purchaser shall be in either the state or federal court situated in Stark County, Ohio. Should any portion of this paragraph be deemed unenforceable then only such portion deemed unenforceable shall be struck.
10. In the event that Gregory has to employ attorneys to either enforce its rights, defend its rights or to seek payment or any other remedy available at law or equity, then purchaser agrees to pay for all attorneys' fees and costs expended by Gregory in any such action regardless of the outcome.

11. This TCA and the underlying materials quote shall be subject to termination at the convenience of Gregory without any further obligation whatsoever on the part of Gregory.
12. In the event of any breach or allegation of breach on the part of Gregory, the only damages for which Gregory may be held responsible shall be the cost of any cover (as defined by the Uniform Commercial Code) for a period of thirty (30) calendar days from the alleged date of breach. Gregory hereby disclaims and purchaser hereby waives any and all other damages whether arising under contract, tort or statute including but not limited to damages arising from alleged delay, non-delivery, lost profits, lost commercial expectancy, reputation or any other type or theory of damages.
13. Gregory reserves the right, at any point in time to request information concerning bonding, information related to mechanic's lien rights, or information related to the financial strength of purchaser. Such information shall, if requested by Gregory, shall be provided by purchaser within three (3) business days of any request. Failure to provide such information shall constitute a material breach.
14. Upon any act of breach, Gregory shall have the right to repossess product delivered, sue for all amounts due including attorneys fees as provided herein, suspend any further performance and or cancel any and all existing agreements without any further obligation by Gregory.
15. Gregory agrees to deliver the agreed product within the time specified in the Quote or Order or as soon as is commercially reasonable. Unless otherwise specifically noted, all deliveries are F.O.B. at Gregory loading docks. If shipped freight prepaid, the charge for freight will be added to the invoice. Risk of loss or damage shall be borne by purchaser and claims made directly with carrier.
16. **Gregory hereby disclaims any implied or express warranty or merchantability or fitness for an intended or any particular purpose. Gregory represents that the product shall reasonably conform to applicable federal and state specifications and Gregory will provide necessary material test reports representing such.**
17. Any and all claims for damaged, defective, nonconforming material or claims of shortages shall be made in writing to Gregory within 24 hours of delivery to Purchaser or such claims are deemed to be affirmatively waived.
18. Should any term or condition set for the herein be deemed by a court of competent jurisdiction to be unenforceable, then all other terms shall survive such ruling and shall be deemed to govern the parties' relationship.