



Standard Terms & Conditions of Purchase

General Provisions

SELLER AGREES TO COMPLY FULLY WITH THE TERMS AND CONDITIONS OF PURCHASE SET FORTH IN THIS DOCUMENT. ACCEPTANCE OF A PURCHASE ORDER AND/OR AGREEMENT IS EXPRESSLY LIMITED TO THESE TERMS AND CONDITIONS OF PURCHASE AND NONE OF THE SELLER'S TERMS AND CONDITIONS SHALL APPLY IN ACKNOWLEDGING A PURCHASE ORDER OR IN THE ACCEPTANCE OF A PURCHASE ORDER. IN THE CASE OF CONFLICT BETWEEN THESE STANDARD TERMS AND CONDITIONS OF PURCHASE AND ROHNER'S PURCHASE ORDER, THE TERMS OF THE PURCHASE ORDER SHALL SUPERSEDE. ANY TERMS PROVIDED BY SELLER THAT ADD, VARY OR CONFLICT WITH THESE TERMS AND CONDITIONS OF PURCHASE, ARE HEREBY REJECTED. ACCEPTANCE BY ROHNER OF THE GOODS DELIVERED UNDER A PURCHASE ORDER OR AGREEMENT SHALL NOT CONSTITUTE AGREEMENT TO SELLER'S TERMS OR CONDITIONS.

Definitions:

"Affiliate" means an entity that (i) is controlled directly or indirectly by Rohner; (ii) controls Rohner directly or indirectly; or (iii) is under common control with Rohner.

"Control" for this purpose shall mean having a fifty percent (50%) or greater interest in the issued share capital of the other entity.

"Agreement" shall mean any long-term agreement, master purchase agreement, supply agreement or any other agreement that incorporates or references these Standard Terms and Conditions of Purchase.

"Confidential Information" shall mean all of Rohner's proprietary information, whether disclosed in oral, written, or electronic format, which includes but is not limited to, data, financial information, technical information, business strategies, designs, specifications, tests, reports, sample products or materials, manufacturing information, or any other confidential information which Rohner provides to Seller.

"Goods" shall mean all goods, parts, products, deliverables, items, or services provided by Seller to Rohner pursuant to a Purchase Order and/or Agreement, which incorporates these Standard Terms and Conditions of Purchase.

"Purchase Order" shall mean the ordering document, whether in electronic or paper form, used by Rohner to order Goods from Seller. Purchase Orders may also be issued by Rohner pursuant to an Agreement with Seller that references these Terms and Conditions of Purchase.

"Seller" shall mean the legal entity selling Goods pursuant to the Purchase Order or Agreement, and these Standard Terms and Conditions of Purchase.

"Rohner" shall mean Rohner Mechanical, Inc., or Affiliate thereof, and any successor or assignee of Rohner.



1. These Terms and Conditions of Sales apply to all purchases by Buyer from Seller. Seller's offer to sell equipment or materials ("Goods") to Buyer expressly limits acceptance to the terms and conditions of the Agreement. Only the terms and conditions stated in the Agreement shall be binding upon Seller. No modification, amendment, change, or additional term, whether in Buyer's purchase order, shipping release forms, or otherwise, shall be binding on Seller unless authorized in writing by Seller's President. Notification of objection is hereby given to any term in any response to an offer by Seller that does not exactly match the terms of the Agreement.
2. Payment terms are as set forth in the Credit Application and Agreement and may be amended only by Seller's authorized representative. Federal, state or local taxes are not included in Seller's prices and are the sole responsibility of Buyer. Service charges shall accrue on amounts not paid according to the terms schedule at a rate of 1-1/2% per month (18% per annum).
3. Seller's obligations, if any, to supply Goods on credit are expressly made conditional on Buyer's assent to Seller's Shipping Policy, found at <https://rohnerspraybooths.com/wp-content/uploads/2020/06/Rohner-Shipping-Policy-15.0.pdf> which is hereby incorporated by this reference into the Agreement. Shipment dates provided by Seller in any quote or other document are estimates only. Seller specifically rejects any purchase order containing a time is of the essence clause or liquidated damage penalties for late shipments. Shipment shall be FOB manufacturer's factory or warehouse at named shipping point with title and risk of loss passing to Buyer upon tender of delivery at the FOB point.
4. Unless otherwise specified in Seller's quote, Buyer is solely responsible, at its sole cost and expense, for obtaining all permits or providing any notice required by any federal, state, or local government authority having jurisdiction necessary for any and all aspects of the assembly, delivery, installation or operation of the Goods. Unless otherwise specified in Seller's quote, Buyer is also solely responsible, at its sole cost and expense, for any fees associated with plan checks, governmental inspections, and any professional engineering seals on any plans or drawings in connection with the Goods.
5. If more than one person or entity signs the Credit Application and Agreement, all such entities and persons are jointly and severally liable for all amounts owed to Seller.
6. SELLER'S ONLY WARRANTIES FOR THE GOODS AND BUYER'S SOLE REMEDIES WITH RESPECT TO DEFECTIVE GOODS ARE SET FORTH IN EXHIBIT B OF THE AGREEMENT. THE EXPRESS WARRANTY AND LIABILITY CONTAINED HEREIN IS IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, EXPRESS OR IMPLIED, WHETHER IN CONTRACT OR IN NEGLIGENCE, IN LAW OR IN FACT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER PROVIDES NO INDEPENDENT WARRANTY FOR THIRD PARTY PRODUCTS OR COMPONENTS SOLD TOGETHER OR INCORPORATED WITH SELLER'S GOODS. No liability whatever shall attach to Seller until the Goods in question have been paid for in full. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES, BUSINESS INTERRUPTION, LOST PROFITS, OR LOSSES RESULTING FROM THE INSTALLATION, USE, MISUSE, OR INABILITY TO USE THE GOODS, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE, AND EVEN IF ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES. Seller's liability shall, in any event, be limited to 100% of the amount paid to Seller for such Goods. Any actions by Buyer for a breach in the warranties contained herein must be commenced within (1) year after cause of action occurs.
7. To the fullest extent allowed by law, Buyer agrees to indemnify, defend and hold harmless Seller and its past, present, and future shareholders, directors, officers, employees, and agents from any claims, demands, liabilities, damages, causes of action, expenses, including attorney's and expert's fees arising out of or in connection with any of the Goods purchased by Buyer. Buyer's indemnification obligations shall not apply to the extent claims are the direct result of Seller's negligence or willful misconduct.
8. Seller shall not be liable for any delay, defect, or deficiency to the extent that such delay, defect, or deficiency is caused by an event of force majeure which affects performance by Seller because of any delay in performance or noncompliance with any provision of this Agreement that results from an act, event, omission, or cause beyond its reasonable control and without its fault or negligence, including but not limited to, strikes, walkouts, civil commotion, riots, wars, fires, explosions, floods, earthquakes, embargoes, or acts of civil or military authorities (each such event, a "Force Majeure Event"). Upon providing Buyer with written notice of a Force Majeure Event, Seller's obligations shall be suspended during, but no longer than, the continuance of the Force Majeure Event. If a Force Majeure Event continues for more than 180 days, either party may terminate the applicable sales order by providing the other party with written notice.



9. Seller may change any term of the Agreement at any time upon 30 days' written notice of such change.

10. The Agreement shall continue in full force and effect until the Agreement is terminated by Seller or Buyer pursuant to the terms and conditions of the Agreement.

11. Buyer may terminate the Agreement or any outstanding sales order by providing Seller with written notice of termination specifically referencing the Agreement. Buyer's termination of the Agreement shall in no way relieve Buyer from Buyer's obligation to make full payment to Seller for any outstanding balances owed to Seller, orders already fulfilled, any Goods already shipped, or any reasonable costs incurred prior to Seller's actual receipt of such notice and related to a fully executed quote/estimate. If Buyer cancels an order after Buyer executes the related quote or estimate, Buyer must pay all engineering, labor and material costs, as used or committed by Seller, plus a cancellation of fee equal to 15% of the full purchase price of the applicable order. At no time may Buyer return shipped Goods for a refund or credit.

12. If Buyer fails to make timely payment of any amount invoiced by Seller, Seller shall have the right, in addition to any and all other rights and remedies available to Seller at law or in equity, to refuse to extend further credit to Buyer or immediately revoke all credit extended. In the event of such non-payment, Seller shall have no obligation to deliver any additional Goods or order any materials related to any outstanding order unless and until Seller receives payment in full for those materials and all outstanding balances. Seller may apply the payments made by Buyer in any manner that Seller, in its sole discretion, deems appropriate, including application of payment to service charges first, and then principal.

13. Extension of credit by Seller, if any, may be changed or withdrawn by Seller at any time with or without cause, effective immediately by providing Buyer with written notice (including electronic communication). In such event, Buyer agrees to pay the outstanding balance within 30 days.

14. Seller has the right to cancel any outstanding sales order for convenience without penalty or liability to Buyer upon giving Buyer seven (7) days' prior written notice. In the event of cancellation, Seller shall promptly refund any amount paid by Buyer for Goods that have not been shipped to Buyer; however, Seller shall be relieved of all further obligations and shall not be liable to Buyer for any incidental or consequential damages. Notwithstanding the foregoing provision, in no event shall Seller's liability arising out of or relating to the sale of Goods exceed the purchase price Buyer paid to Seller for such Goods.

15. In the event Buyer defaults or breaches any term or condition of the Agreement, Buyer agrees to pay on demand all costs and expenses of Seller in connection with said default or breach by Buyer, including without limitation, all attorneys' fees, costs, and expenses incurred by Seller in enforcing any term or provision of the Agreement or in collecting payments due pursuant to the Agreement, whether through litigation or other dispute resolution or otherwise. Such fees, costs and other expenses shall include without limitation all costs and disbursements, all costs associated with discovery, depositions and expert witness fees, and all out-of-pocket costs incurred by Seller in the prosecution or defense of any action. For purposes of this paragraph, the phrase "litigation or other dispute resolution" shall be deemed to include any proceeding commenced in any court of general or limited jurisdiction, any arbitration or mediation, any proceeding commenced in the bankruptcy courts of the United States, and any appeal from any of the foregoing.

16. The Agreement will be governed, construed, and enforced in accordance with the laws of Washington, without regard to its conflicts of laws principals. Any proceeding commenced in connection with the Agreement will be brought in Clark County, Washington. Buyer consents to the jurisdiction of such courts in any such action or proceeding and waives any objection to such venue.

17. No right or interest under the Agreement may be assigned by Buyer, nor may any obligation or performance under the Agreement be delegated by Buyer without Seller's prior written consent. Any attempted assignment or delegation shall be void and ineffective for all purposes.

18. In the event any provision of the Agreement is declared by a court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable as written, such court or arbitrator shall modify and reform such provision to permit enforcement to the greatest extent permitted by law, and that the enforceability of the remaining provisions of the Agreement shall in no way be affected or impaired.



19. Buyer must provide Seller with prior written notice of any direct or indirect change in ownership of 25% or more of the equity ownership of Buyer.

20. Payment to Seller of any amount owed by Buyer may not be withheld, set-off against, or reduced by any amount owed, or claimed to be owed, to Buyer by Seller for any reason whatsoever.