

Product Supply Standard Terms & Conditions Dated August 1, 2022

All orders and agreements concerning the products sold by DER Solutions Inc. are deemed to include the following terms and conditions:

1. **Price:** Quotations are valid for a period of fifteen (15) days.
2. **Errors:** All clerical and stenographic errors and omissions are subject to correction.
3. **General.** A valid agreement binding upon DER Solutions Inc. will only come into being as of the time a formal written acknowledgement of a purchase order is sent to Buyer by DER Solutions Inc. Such agreement is not assignable by Buyer without written approval of DER Solutions Inc. Such agreement will be governed by the laws of the Province of Ontario. Waiver by DER Solutions Inc. of a breach of any of the Terms and Conditions of this or any other agreement with Buyer shall not be construed as a waiver of any other breach.
4. **Delay:** DER Solutions Inc. assumes no responsibility for any delay in fabrication, assembly, delivery or installation of the equipment cause by strikes, acts of GOD, force majeure, civil commotion, war, Government regulation, unavailability of materials or services, any act of omission of Buyer or other contractor, the COVID-19 pandemic or any future epidemic, or any other condition beyond the control of DER Solutions Inc., and DER Solutions Inc. shall have no liability therefore, and the Buyer shall not be entitled to any damages resulting thereof.
5. **Guarantee:** Upon acceptance of a quotation, DER Solutions Inc. reserves the right to request a guarantee of the Owner's or Buyers ability to make payment of the amount hereby quoted or tendered. If the Owner or Buyer is unable to provide such a guarantee, then DER Solutions Inc. is released from any obligation to enter into a formal contract with the Owner or Buyer for the sale of equipment covered by this quotation or tender.
6. **Changes:** All quotations are based upon plans, specification and information supplied. A change in the specifications, relating to the equipment or in shipping instructions or specified delivery date may be made only with the approval of DER Solutions Inc. If a change made at the request of a Buyer increases DER Solutions Inc's cost, such increase may be added to the purchase price at the election of DER Solutions Inc.
7. **Taxes:** Any sales, excise, or other tax payable in respect of the sale or installation of the equipment to be paid by Buyer.
8. **Warranty:** DER Solutions Inc. makes no representations or warranties of any kind, express or implied, statutory or otherwise, about the products or the accuracy of the information contained in the manufacturer catalogue or spec sheets. The only warranties available to Buyers shall be those provided by the manufacturer of the product or the installing contractor. DER Solutions Inc. provides no warranties whatsoever.
9. **Equipment:** DER Solutions Inc. agrees to administer the repair, or to provide a replacement for any part of the equipment, which is proved to be defective in material or workmanship with the equipment or product manufacturer or contractor, under normal use and operating conditions for a period of one year for the date of installation, or for the time period agreed upon within the manufacturer agreement. Buyer shall promptly notify DER Solutions Inc. in writing of any such claimed defect.

DER Solutions Inc., at its option, may require Buyer to return any claimed defective parts or material to the manufacturer or DER Solutions Inc., whichever is deemed necessary by DER Solutions Inc., at the expense of the Buyer for inspection. DER Solutions shall have no liability for any loss or, or delay in production, whether or not related to the use of, or delivery of any equipment, or for any consequential damages or business loss incurred by Buyer.
10. **Limitation of Liability:** DER Solutions Inc. shall not be liable for any loss of profit, promotional or manufacturing expense, overhead, business interruption, losses, loss of customers, injury to reputation, loss of contract or orders, injury to body or mind, or any other loss, general or special, caused or contributed to by the use or misuse of any product or services provided by DER Solutions Inc., whether such liability be based on contract, tort, or any other basis. DER Solutions Inc. shall not be liable for any penalty for an indirect, third party, special, general secondary or consequential damages.

11. Cancellation:**A. Non-Engineered Products**

- i. Standard catalogued items not yet through complete order entry, no charge.
- ii. Standard catalogued items through order entry but not yet in production – \$250.00 domestic; \$500 international.

B. Engineered Products

- i. Orders through order entry but not yet in engineering process – \$250.00 domestic; \$500 international.
- ii. Orders in engineering process – 25% of order value plus any vendor charges levied against DER Solutions Inc. for advanced ordered materials.
- iii. Approval drawings furnished and materials advanced ordered – 35% of order value plus cost of materials ordered.
- iv. Order released for production – up to 100% of order value.

12. **Property Insurance:** DER Solutions Inc. is responsible for materials and equipment while at DER Solutions Inc's warehouse. DER Solutions Inc. is not responsible for any equipment or products that are stored elsewhere and are the responsibility of the Buyer to ensure that the equipment or product is adequately insured at the Buyers expense, against loss or damage by fire or other casualty.
13. **Shipping Terms:** All shipments will be made F.O.B. to Buyer's desired location with freight prepaid as quoted or as agreed upon by this proposal or quotation. Shipments of equipment or products may ship in one or more lots. Such lots may be separately invoiced and shall be paid for when due per invoice, without regard to subsequent deliveries. Delay in the delivery of any lot shall not relieve the Buyer of its obligation to accept remaining deliveries. If, because of the Buyer, any shipment must be diverted or returned to DER Solutions or the manufacturer, the Buyer shall pay all demurrage, transportation and other costs incurred as a result thereof.
14. **Storage:** Equipment on which manufacture or delivery is delayed, due to any cause within the Buyer's control, may be placed in storage by DER Solutions Inc., for Buyer's account and risk, and regular charges therefore and expenses in connection therewith shall be paid by Buyer, but if, in DER Solutions Inc's opinion, it is unable to obtain, or continue with such storage, Buyer will, on request, provide or arrange for suitable storage facilities and assume all costs and risks in connection therewith.
15. **Returned Equipment:** Equipment may not be returned except with advance written permission of an authorized DER Solutions Inc. official, and when so returned will be subject to handling and transportation charges. Authorized return goods must be shipped prepaid to the location designated by the authorization.
16. **No Holdbacks:** DER Solutions Inc. does not accept any holdbacks from its billings. DER Solutions Inc. is a supplier (not a "contractor" as defined in the Construction Lien Act) and is NOT subject to the holdback rules contained in the Construction Lien Act.
17. **Waiver:** No waiver, alteration or modification of these terms and conditions shall be valid unless made in writing and signed by an authorized officer of DER Solutions Inc.
18. **Permits:** The Buyer shall be responsible for obtaining all necessary permits and approvals as may be required for the installation of any goods or services provided hereunder and shall obtain the requisite permits or approvals at their own expense. The Buyer shall indemnify and hold harmless DER Solutions Inc. from any and all loss, cost, expense, and damages as account of any and all matter of claims, demands, actions or proceedings that may be instituted against DER Solutions Inc. on grounds alleging that the installation of the products and services provided by the DER Solutions Inc. were completed without the requisite permits and approvals.
19. **Entire Agreement:** This contract and these terms and conditions shall constitute the entire agreement between the Buyer and DER Solutions Inc. and supersede all prior or contemporaneous oral or written agreements, representations, promises, warranties and statements of any kind whatsoever made by DER Solutions Inc. and shall not be supplemented by any course of dealing or performance or usage of trade. There are no provisions, warranties, representations, promises or inducements except such as are expressly provided herein.
20. **Severability:** If any provision of this contract or these terms and conditions is held to be invalid or unenforceable, the remaining provisions shall remain unaffected, and in full force and effect.

21. **Jurisdiction:** This contract and these terms and conditions of sale shall be governed and interpreted by the laws of the Province of Ontario and all actions and other legal proceedings relating directly or indirectly to this contract and these terms and conditions shall be determined and brought exclusively in the courts of the Province of Ontario.
22. **Credit:** Unless the customer has applied in writing for and has obtained credit with DER Solutions Inc, any order placed by the Buyer must be paid for at time of order by EMT, debit or credit card (including processing fees), or on delivery by cash or certified cheque or money order. If payment is made in any other manner and is accepted by DER Solutions Inc. or its agents, then there will be a \$50 fee charged for failure of such method of payment, such as non-sufficient funds (NSF), cheques or reversed bank entries.
23. **Terms:**
Domestic accounts – unless otherwise specified in a payment schedule outlined in this proposals/quotation, **-Net 30. International accounts** – Standard terms are an irrevocable letter of credit, confirmed by a Prime Canadian bank, for the full amount of the contract, valid for at least 60 days beyond the latest quoted shipping date. Other terms may be granted upon receipt of satisfactory credit references and approval by our Finance Department. Letter of credit must be received prior to release of the order to manufacturing. To apply for an account please visit: www.dersolutions.ca
- Late payment charge of 2% per month or 24% per annum on overdue accounts. Shipments and deliveries hereunder shall at all times be subject to the judgment of DER Solutions Inc. that the financial condition of Buyer at all times justifies continuance of shipments and deliveries hereunder. If Buyer shall fail to make any payments in accordance with the terms and provisions hereof, DER Solutions Inc, in addition to its rights and remedies, but not in limitation thereof, may at its option, defer shipments or deliveries hereunder, or under any other contract with the Buyer, except upon receipt of satisfactory security or of cash before shipment.
24. **Orders:** All purchase orders must have the following clearly identified to be accepted by DER Solutions Inc. If a purchase order is missing any one of the requirements, it will be returned for revision prior to entering the order
- a. Legal entity – DER Solutions Inc.
 - b. Purchase Order (PO) number
 - c. Sold to number or address
 - d. Ship to number or address ('will advise' acceptable temporarily.)
 - e. Price per line item
 - f. Quantity per line item
 - g. Catalogue number, customer material number, or proposal number with identified item numbers
 - h. Freight terms
 - i. Currency if international
 - j. Payment Terms

Listing any of the following additional requirements on your purchase order will assist in the speed and accuracy of processing your order and preventing orders from being placed on hold:

- Valid and current contract or quote number
- Shipping notes (if required)
- If shipping, collect an account number must be provided
- If shipping, third party a payer address is needed
- If shipping direct to the end user, provide an address, contact name, and contact number
- If shipping complete, this must be noted.
- Please note any special instructions, including special billing and customer witness tests
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- Lead times
- If expedited lead-times have been committed, please note who you received the lead-time from and what the commitment was
- Quoted lead-times are based on current factory loading and are subject to change.