

## Standard Terms and Conditions of Sale



**PREFORMED** LINE PRODUCTS

Effective December 1, 2015

**1. APPLICABILITY OF TERMS AND CONDITIONS.** These Terms and Conditions will govern all sales by Preformed Line Products Company ("PLP") of Goods ("Goods"), unless otherwise agreed to in writing, signed by PLP by an authorized agent in Cleveland, Ohio. Terms and conditions contained in Buyer's purchase order or any other documents that are different than or in addition to these Terms and Conditions are objected to and will not be binding on PLP. Buyer will be deemed to have agreed to these Terms and Conditions by Buyer's issuing a purchase order number, PLP's receipt of a written acknowledgement of Buyer's placement of an order, or PLP's commencement of performance. Buyer's acceptance of these Terms and Conditions will be deemed to have occurred on the date such performance commences. PLP reserves the right to change these Terms and Conditions, or issue new terms, at any time, and all subsequent orders shall be bound thereof. If for any reason PLP's Quotation is deemed an acceptance of an offer made by Buyer, such acceptance is expressly conditioned on Buyer's assent to these Terms and Conditions, which assent will be evidenced by the earlier of Buyer's acceptance of Goods delivered by PLP or any other performance by Buyer. PLP will sell Goods only if Buyer assents to these Terms and Conditions.

**2. QUOTATIONS, ORDERS AND PRICES.** All prices and specifications contained on the face of PLP's Quotation are subject to change without notice, unless indicated otherwise on the face of the Quotation. All quotations on PLP's standard catalog items are made subject to prior sale of such Goods. The minimum billing charge on any order is \$500.00 plus freight, handling and delivery charges. Any additions to orders already placed by Buyer will be considered as new orders.

**3. BROKEN PACKAGE CHARGE.** A \$25.00 broken package charge will be applicable to all Goods ordered in quantities other than standard carton increments as published in PLP's catalogs.

**4. TAXES.** PLP's prices do not include any Federal, state or local taxes or fees or any custom, export, import, wharfage or associated dues or duties, and any such taxes or fees now in effect or hereafter levied will be in addition to such prices and will be paid by the Buyer. Buyer agrees to defend, indemnify and hold PLP harmless from and against any and all such taxes and fees, including, without limitation, any cost, expense, attorneys' fees, interest or penalties assessed against or incurred by PLP as a result of Buyer's failure to pay any such taxes or fees.

**5. SHIPMENTS, FREIGHT AND DELIVERY. FORMED WIRE PRODUCTS AND OTHER NON-CLOSURE ITEMS AND ACCESSORIES:** PLP will pay freight via cheapest way to any domestic common carrier points, excluding Alaska, Hawaii and Puerto Rico, on orders or releases of net invoice value of \$3,500 or more, specified for shipment to one location at one time. Only the value of the Formed Wire Products and other non-closure items and accessories applies towards the \$3,500 minimum value for prepaid freight. On all other orders or releases, Buyer is responsible for freight, handling and delivery charges. **SPLICE CASES, CLOSURES AND ACCESSORIES:** PLP does not pay freight, handling and delivery charges. **SOLAR PRODUCTS:** PLP does not pay freight, handling and delivery charges. **ALL PRODUCTS:** Buyer will pay any special packaging, shipping and transportation charges resulting from compliance with its request for use of a method of transportation other than the method that PLP designates. PLP's placement of the purchased Goods at the point of shipment in the possession of a trucking company, railroad company or other common carrier or on Buyer's vehicle will constitute delivery to Buyer, and thereafter Buyer will bear all expenses and risk of loss. Product quantity shipped may be +/- 5%.

**6. SHIPPING ESTIMATES.** Shipping estimates made to Buyer will date from PLP's receipt of Buyer's complete written instructions. Shipping date of Goods requiring Buyer's inspection before shipment will be extended by the time consumed by any such inspection.

**7. TERMS.** Net thirty (30) days from date of PLP's invoice. A service charge of one and one-half percent (1.5%) per month will be added to all past due invoices, not to exceed the maximum permitted by law.

**8. FINANCIAL RESPONSIBILITY.** Notwithstanding anything herein to the contrary, Buyer's financial responsibility is at all times subject to approval of PLP's Credit Department, and PLP at any time may require payment in advance or satisfactory security or guarantee that invoices will be paid promptly when due. If Buyer fails to comply with any terms of payment, PLP may withhold any further deliveries or terminate this Agreement and may declare any unpaid amount to be due and owing immediately.

**9. ACCEPTANCE.** Buyer shall notify PLP, in writing, of any defect, error or shortage in any Goods it received, within thirty (30) days of delivery, and such written notice must state the applicable PLP Order Number and must be accompanied by any documents that substantiate the alleged defect, error or shortage. If Buyer fails to provide PLP with such written notice, documents and the applicable PLP Order Number, within the required time, Buyer will be deemed to have waived the defect, error or shortage and to have accepted the Goods delivered.

**10. BUYER'S AGREEMENT TO DEFEND.** If PLP manufactures or sells any Goods to meet Buyer's instructions, specifications or any other requirements, and such Goods are not included among PLP's standard catalog items offered by it to the trade generally in the usual course of its business, Buyer agrees to defend, indemnify and hold PLP harmless from and against any and all loss, cost, damage, liability or expense (including, without limitation, any penalties or punitive damages, attorneys' fees and expenses and costs of suit) arising out of the manufacture, sale or use of such Goods, including, without limitation, claims for actual or alleged infringements of any United States or foreign patent or copyright, or any actual or alleged unfair competition resulting from similarity in design, trademark or appearance. PLP shall supply Buyer with catalogs, specifications, instructions and recommended installation procedures pertaining to the Goods; however, Buyer alone shall be responsible for the proper training, instruction and supervision of its contractors, employees, agents or purchasers with respect to the safe and correct use and application of such Goods. If Buyer uses any Goods from PLP not in accordance with PLP's catalogs, specifications, instructions or recommended installation procedures, Buyer agrees to defend, indemnify and hold PLP harmless from and against any and all loss, cost, damage, liability or expense (including, without limitation, costs of suit and attorneys' fees and expenses) arising out of or relating to or resulting in any way from such use by Buyer.

**11. NOTICE OF ACCIDENT OR MALFUNCTION.** Buyer will notify PLP in writing, no later than thirty (30) days from any accident or malfunction involving the Goods that result in personal injury or damage to property, and will cooperate fully with PLP in investigating and determining the cause of such accident or malfunction. If Buyer fails to give such written notice or fails to so cooperate, Buyer agrees to defend, indemnify and hold PLP harmless from and against any and all loss, cost, damage, liability or expense (including, without limitation, costs of suit and attorneys' fees and expenses) arising out of or relating to or resulting in any way from such accident or malfunction.

**12. TOLERANCES AND VARIATIONS.** Except as specified by Buyer and agreed to in writing by PLP, the Goods will be produced in accordance with PLP's standard practices. All Goods, however, including those produced to meet an exact specification, will be subject to tolerances and variations consistent with good manufacturing practices in regard to dimension, weight, section, composition, mechanical and electrical properties; to normal variations in surface and internal conditions and in quality; and to deviations from tolerances and variations consistent with practical testing and inspection methods. PLP has no obligation to evaluate adjacent building or equipment geometry that may affect the wind dynamics and pressures exerted on the solar array.

**13. WARRANTY AND DISCLAIMERS OF WARRANTY.** PLP warrants to Buyer that the Goods supplied hereunder will be free from defects in material and workmanship under normal and proper usage for a period of 1 year from the date of shipment by PLP (**SOLAR PRODUCTS term is 10 years**). The foregoing warranty will not cover and PLP makes no warranties with respect to (i) any Goods subjected to abuse, misuse, misapplication, neglect, alteration or accident; to improper and incorrect installation or maintenance; or to abnormal conditions of use, temperature, moisture, dirt or corrosive matter; and (ii) any materials, parts, goods or other components that are manufactured by an entity other than PLP.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR OTHERWISE ARISING BY OPERATION OF LAW, TRADE, USAGE OR COURSE OF DEALING, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Buyer agrees to provide PLP with written notice of any breach of the above warranty within thirty (30) days after Buyer discovers, or should have discovered, the alleged breach. Time is of the essence herein, and Buyer's failure to provide written notice to PLP within the required time of any alleged breach of the foregoing warranty will release and discharge PLP from any obligation or liability for that breach of warranty. The foregoing warranty extends only to Buyer and to no other person or entity. Buyer agrees to give PLP full access to all Buyer's relevant records and data. PLP's obligation to perform may be delayed, at PLP's sole option, until PLP has been paid in full for all goods purchased by the Buyer.

**14. REMEDIES AND LIMITATIONS ON REMEDIES.** In the event of any material breach of the above warranty, PLP will, at its sole option, credit Buyer's account or repair any defective Goods or furnish a replacement part or Goods, all subject to Buyer providing written notice of the alleged breach within the time required.

THE REMEDIES SET FORTH HEREIN SHALL BE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO BUYER SO THAT PLP'S CREDIT OF BUYER'S ACCOUNT OR REPAIR OR REPLACEMENT IS A FULFILLMENT OF ALL PLP'S OBLIGATIONS. PLP SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND, NOR UNDER ANY CIRCUMSTANCE SHALL PLP BE LIABLE FOR DAMAGES BEYOND THE PRICE OF THE GOODS PURCHASED BY BUYER, WHETHER IN CONTRACT, IN TORT OR UNDER ANY WARRANTY OR OTHER USE, AND WHETHER OR NOT SAID LOSS, COST, PENALTY OR DAMAGE WAS REASONABLY FORESEEABLE.

If PLP requests, the Goods alleged to be defective will be returned to PLP, at its direction and expense, for examination. No Goods are to be returned to PLP without its prior written authorization. If PLP discovers that any Goods so returned are not covered by the foregoing warranty, PLP reserves the right to charge Buyer for all transportation costs and expenses incurred by PLP in examining, processing or handling such Goods. Any controversy or claim arising out of or relating to this contract or the breach hereof, must be commenced within two (2) years after the cause of action has accrued.

**15. DEFAULT OR DELAY.** PLP will not be liable for any default or delay in the production or delivery of any Goods when such default or delay results either directly or indirectly from: (a) accidents to, or breakdowns or mechanical failure of, PLP's plant machinery or equipment; strikes or other labor troubles or labor shortages; fire; flood; wars; acts of the public enemy; acts of God; delays by any supplier; delays in transportation or lack of transportation facilities; embargoes; shortages of, or reductions in, energy sources; priorities, allocations, limitations, restrictions or other acts required or requested by Federal, state or local governments, or any subdivision, bureau or agency thereof; or (b) any other cause beyond PLP's control.

**16. CANCELLATION.** Buyer cannot cancel orders for delays in delivery or other cause until PLP has received written notification of such intention. In any event, Buyer shall be obligated to accept and pay for any Goods previously shipped and to pay cancellation charges based on expenses incurred or commitments made by PLP for any Goods which are in the process of manufacture for Buyer. PLP reserves the right to apply a minimum cancellation charge of the greater of \$50.00 or 25% of the purchase price of the unshipped portion of the order, on any orders for standard stock items Buyer cancels.

**17. RETURNS.** No Goods may be returned without first having secured prior written authorization from PLP's Cleveland, Ohio office. Only non-obsolete standard stock items in original cartons may be returned, freight prepaid. Return requests must be initiated within one year from date of original shipment. Such requests follow the same channels as order placement. Returns will be subject to factory inspection for resalability and for quantity before credit, which will be applicable to replacement or future purchases by Buyer, is issued. PLP reserves the right to apply a minimum restocking charge of the greater of \$100.00 or 30% of the purchase price of the returned materials, plus original freight charges to all returns.

**18. NOTICES.** Any notice to PLP required or permitted hereunder will be deemed to have been effectively delivered if in writing and served by personal delivery to PLP or sent by registered or certified mail with return receipt requested (or such form of mail as may be substituted therefor by postal authorities), postage prepaid, to PLP at the address specified on the front page hereof and marked ATTN: Marketing Administration.

**19. CONFIDENTIALITY.** Buyer agrees that all information furnished by or obtained from PLP in connection with the sale of Goods hereunder will be confidential, and Buyer agrees not to (i) disclose any such information to any other person, or (ii) use such information for any purpose, other than performing this contract.

**20. SECURITY INTEREST.** PLP retains a security interest in all Goods and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. Any repossession and removal of Products shall be without prejudice to any of PLP's other remedies at law or in equity. Buyer agrees, without further consideration, at any time to do or cause to be done, executed and delivered, all such further acts and instruments as PLP may reasonably request in order to perfect PLP's security interest.

**21. INTELLECTUAL PROPERTY.** PLP shall own all intellectual property embodied in the Goods, and Buyer shall assist PLP, at no cost, with filing any documentation necessary to demonstrate PLP's ownership. PLP shall defend Buyer against any claim of infringement and shall pay any resulting damages finally awarded, provided that (a) Buyer promptly notifies PLP in writing of any claim, and (b) PLP has sole control of the defense and all related settlement negotiations. This obligation does not apply to claims arising out of combinations of Goods with goods provided by others, or to claims resulting from compliance of the goods with Buyer's design or specifications, or which Buyer assumes and shall hold PLP harmless for any claims thereof.

**22. MISCELLANEOUS.** The failure of either party to insist upon performance of any term or condition herein or to exercise any right or privilege shall not thereafter waive the future performance of such term, condition, right or privilege or of any other terms, conditions, rights or privileges, whether of the same or similar type. The rights herein and the construction of these Terms and Conditions shall be governed by the laws of the State of Ohio, without giving effect to principles of conflict of laws. These Terms and Conditions shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Each provision hereof shall be severable, and in the event any provision hereof is held to be contrary to law, invalid or unenforceable, the remaining provisions shall not be affected thereby, but shall remain in full force and effect. The paragraph headings herein are solely for the convenience of and reference by the parties and do not constitute any part of these Terms and Conditions. Buyer may not assign its rights or delegate its obligations hereunder without PLP's prior written consent.

**23. The Buyer and any of its subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered entities take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**

**24. ETHICAL BEHAVIOR.** Buyer, its employees, officers, agents, representatives and Subcontractors ("Agents") shall at all times maintain the highest ethical standards and avoid conflicts of interest in its performance hereunder. In conjunction with its performance hereunder, Buyer and its Agents shall comply with all applicable laws, statutes, regulations and other requirements, including, but not limited to, those prohibiting bribery, corruption, kick-backs or similar unethical practices such as, without limitation, the United States Foreign Corrupt Practices Act and PLP's Code of Conduct available on its website. Buyer shall indemnify and hold PLP harmless from all fines, penalties, expenses or other losses sustained by PLP as a result of Buyer's breach hereof.