

RONAL INDUSTRIES INC. - TERMS AND CONDITIONS

1. **CONTRACT:** The contract resulting from the acceptance of the order is to be construed according to the laws of the State of New York and shall be deemed to have arisen at the address of the Buyer which is stated on the face of this order. This contract is non-assignable by Seller.
2. **DELIVERY SCHEDULE:** Deliveries are to be made both in quantities and at time specified in schedules furnished by Buyer. Buyer will have no liability for payment for material or items delivered to Buyer which are in excess of quantities specified in delivery schedules. Buyer may elect to retain said quantities and suffer no liability for payment. Buyer may from time to time change delivery schedules or direct temporary suspension of schedule shipments. Buyer reserves the right to charge Seller as liquidating damages 1 1/2% per day on the unshipped balance of all deliveries which fail to adhere to agreed upon schedule.
3. **EXCUSABLE DELAYS:** Except with respect to defaults of subcontractors, Seller shall not be liable for delays or defaults in deliveries due to causes beyond its control and without its failure or negligence.
If at any time Seller has reason to believe that deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to Buyer. Any delay due to default of subcontractor will be excusable if beyond the control and without the fault or negligence of both Seller and its subcontractor and if Seller establishes that it could not obtain supplies or services from any other source in time to meet the delivery schedules.
4. **WARRANTY:** Seller expressly warrants that all the material and work covered by this order will conform to the specifications, drawings samples or other description furnished or specified by Buyer, and will be merchantable, of good material and workmanship and free from defect. Seller expressly warrants that all the material covered by this order, which is the product of Seller or is in accordance with Seller's specifications, will be fit and sufficient for the purposes intended. In the event of breach of warranty, the Seller agrees that Buyer may procure the non-conforming item from any available source and shall have the right to bill Seller for any and all expenses or costs incurred by reason of said procurement. Seller agrees that Buyer may remanufacture the non-conforming item on Buyer's premises and shall have the right to bill Seller for any and all expenses or costs incurred by reason of said remanufacturing.
5. **GOVERNMENT REGULATIONS:** In the performance of work under this order, Seller agrees to comply with all applicable federal, state or local rules, regulations and ordinances, including, but not limited to, the following contract clauses as set forth in the Defense Acquisition Regulation ("DAR"). These DAR clauses are a part of the purchase order. The term "Contractor" shall mean "Seller", the term "contract" shall mean "this order," and the terms "Government," "Contracting Officer," and equivalent phrases shall mean "Buyer." All referenced DAR paragraph numbers refer to current paragraphs and revision in effect as of the date of this order, unless otherwise indicated. Copies of the DAR may be obtained from the Government Printing Office, Washington, D.C.
6. **INSPECTION:** All material shall be received to Buyer's inspection and rejection. Payments for material on this order prior to inspection shall not constitute an acceptance thereof nor will acceptance remove Seller's responsibility for latent defects. Buyer shall have the right to reject or retain and correct such supplies and the right to procure replacement supplies as specified above. Seller shall pay Buyer for expenses incurred in correcting defective supplies. At Buyer's option, rejected supplies will be held or returned to Seller at Seller's risk for credit and Seller shall pay Buyer for all packing, handling, sorting and transportation expenses incurred in connection with rejected supplies. At Buyer's option, rejected supplies will be held or returned to Seller at Seller's risk for credit and Seller shall pay Buyer for all packing, handling, sorting and transportation expenses incurred in connection with rejected supplies. The remedies provided for in this paragraph and paragraph (4) Warranty, shall be in addition to those implied by or available at law and shall exist notwithstanding the acceptance by Buyer of all or a part of the supplies with respect to which such remedies are applicable.
7. **TERMINATION:** Buyer may terminate in whole or in part the undelivered portion of this purchase order at any time. In the event of termination for reasons other than the inexcusable default of Seller, Buyer shall pay Seller for reasonable costs incurred which are properly allocable or apportionable, under generally accepted accounting principles to the terminated portion of the purchase order.
In the event Seller fails or refuses to make delivery of the supplies called for in the order or shipping release within the time specified (except for the provisions of paragraph (8) (Excusable Default) or fails to make progress so as to endanger timely performance of this order, Buyer may terminate the order in whole or in part by written notice without obligation to Buyer.
8. **EXCUSABLE DEFAULT:** Neither Seller nor Buyer shall be liable for delays or failures in performing hereunder due to causes beyond the control and without the fault or negligence of the respective parties. Seller shall notify Buyer immediately of any anticipated delay or failure to perform hereunder. In the event of an excusable delay or failure of performance by Seller, Buyer shall be entitled to obtain elsewhere for the duration of failure, the supplies or services ordered hereunder, and to reduce pro tanto, and without any obligation to Seller the Quantity or amount of supplies order from Seller under this purchase order.
9. **PATENTS:** (a) Seller warrants that the supplies specified herein and their sale or use alone, or in combination according to Seller's specifications or recommendations, if any, will not infringe any United States or foreign patents, and agrees to indemnify and hold harmless Buyer and anyone selling or using any Buyer's products against all judgments, decrees, costs, and expenses resulting from any infringement, and agrees the Seller shall, upon request of Buyer and at Seller's own expense, defend or assist in the defense of any action which may be brought against Buyer or those selling or using any of Buyer's products by reason of any such alleged infringement. (b) Seller hereby grants to Buyer a license to repair, rebuild and relocate and to have repaired, rebuilt and relocated the supplies purchased by Buyer under this purchase order.
10. **CHANGE IN SPECIFICATIONS:** Buyer reserves the right at any time to make changes in drawings and specifications as to any material and/or work covered by this order. Any difference in price or time for performance resulting from such changes shall be equitably adjusted and the contract and/or schedule shall be modified in writing accordingly.
11. **MATERIAL FURNISHED BY BUYER:** Any material furnished by Buyer, on other than a charge basis in connection with this order, shall be deemed held by Seller upon consignment. All such materials not used in the manufacture of the products covered by this purchase order shall, as directed, be returned at Buyer's expense, and, if not accounted for or so returned, shall be paid for by Seller. All such materials, including, but not limited to, tools, dies, gauges, jigs, fixtures, ect., owned by Buyer shall be fully covered by Seller with fire and extended coverage insurance.
12. **TOOLS:** Unless otherwise herein agreed, Seller at its own expense shall furnish, keep in good condition and replace when necessary, all dies, tools, gauges, fixtures, patterns, ect., necessary to the production of the material ordered.
Buyer has the option, however, to take possession of and title to any dies, tools, gauges, fixtures, patterns, ect., that are special for the production of the material covered by this order and shall pay to Seller the amortized cost thereof, provided, however, that this option shall not apply if the material hereby ordered is the standard product of Seller or if a substantial quantity of like material is being sold by Seller to other.
13. **REMEDIES:** The remedies herein reserved shall be cumulative, and additional to any other or further remedies provided in law or equity. No waiver of a breach of any provision of this contract shall constitute a waiver of any other breach or of such provision.
14. **TECHNICAL INFORMATION DISCLOSED TO BUYER:** Seller agrees not to assert any claim (other than a claim for patent infringement) with respect to any technical information which Seller shall have disclosed or may hereafter disclose to buyer in connection with the goods or services covered by this order.
15. **INSURANCE:** If this order covers the performance of labor for Buyer, Seller agrees to indemnify and protect Buyer against all liabilities, claims or demands for injuries or damages to any person or property growing out of the performance of this contract, by Seller, its servants, employees, agents or representatives. Seller further agrees to furnish, upon Buyer's request, insurance carriers certificate showing that Seller had adequate workman's compensation, public liability, and property damage insurance coverage. Said certificate must set forth the amount of coverage, number of policy and date of expiration. If Seller is a self-insurer, the certificate of the appropriate state agency of the state in which said labor is to be performed must be furnished by such state agency directed to Buyer. The purchase of such insurance coverage or the furnishing of the aforementioned certificate shall not in satisfaction of Seller's liability hereunder or in any way modify Seller's indemnification of Buyer.
16. **PACKING, MARKING, AND SHIPPING:** (a) All supplies shall be properly packed, marked and shipped in accordance with the requirements of the common carrier transporting such supplies and of this purchase order and in a manner which will permit the securing of the lowest transportation rules. Seller shall route shipments in accordance with the Buyer's instructions. Seller shall reimburse Buyer for all expenses incurred by Buyer as a result of improper packing, marking, or routing. Any transportation charges paid by Seller with respect to which Seller is entitled to reimbursement, shall be added to Seller's invoice as a separate item and the receipted freight bill shall be attached thereto. Unless otherwise provided in this purchase order, no charge shall be made by Seller for containers, crating, boxing, bundling, dunnage, drayage or storage.
17. **PREMIUM SHIPMENTS:** If because of failure of Seller to meet the delivery requirements of this purchase order, buyer finds it necessary to require shipment of any of the supplies covered by this purchase order by a method of transportation other than the method originally specified by Buyer, Seller shall reimburse buyer that amount, if any, by which the cost of the method of transportation originally specified unless such failure is due to cause beyond the control and without the fault or negligence of Seller.
18. **ACCEPTANCE:** Unless otherwise provided herein, it is understood that the written acceptance of the Seller of this purchase order or the commencement of any work or the performance of any services hereunder by Seller (including the commencement of any work or the performance of any services with respect to samples) shall constitute acceptance by Seller of this purchase order and of all its terms and conditions and that such acceptance is expressly limited to such terms and conditions.
19. **MODIFICATION OF PURCHASE ORDER AND NON-ASSIGNMENT:** This purchase order, with any written instructions issued hereunder, contains the complete and final agreement between Buyer and Seller and no agreement or other understanding in any way purporting to modify the terms and conditions thereof shall be binding upon Buyer unless made in writing and signed by Buyer's authorized representative. Seller shall not delegate in any manner to any person the performance of any work or the supplying of any services under this purchase order, provided, however, that the Buyer shall be entitled to assert against the assignee thereof all rights, claims, defenses of every type including (without limitation, rights of set-off, recoupment, and/or counterclaim), which Buyer could assert against Seller, whether acquired prior or subsequent to assignment.
20. **FREIGHT RATE, CUSTOM DUTIES, IMPORT TAXES, EXCISE TAXES AND SALES TAXES:** Any reduction is Seller's cost resulting from a reduction from freight rates, custom duties, import taxes and excise taxes and/or sales taxes from those in force on the date thereof, is to be paid to Buyer by Seller, in reduction of the price of the goods ordered herein.
21. **CERTIFICATION OF NONSEGREGATED FACILITIES:** (Applicable to contracts, subcontracts and agreement with applicants who are themselves, performing federally assisted construction contracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause.)
By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he does not maintain or provide for his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, religion, color or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts, exceeding \$10,000 which are not exempt from the provisions of Equal Opportunity clause, that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods.)
22. **DAR REGULATIONS:** Section 7-103.
 - 7-103.15 - Certain Communist Areas
 - 7-103.16 - Contract Work Hours and Safety Standards Act - Overtime Compensation
 - 7-103.17 - Walsh-Healy Public Contracts Act
 - 7-103.23 - Notice and Assistance Regarding Patent and Copyright Infringement
 - 7-103.27 - Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
 - 7-103.28 - Affirmative Action for Handicapped Workers
 - 7-103.29 - Clean Air and Water
23. **DAR REGULATIONS:** Section 7-104.
 - 7-104.14 - Utilization of Small Business and Small Disadvantaged Business Concerns
 - 7-104.20 - Utilization of Labor Surplus Area Concerns
 - 7-104.31 - Duty-Free Entry
 - 7-104.32 - Duty-Free Entry of Qualifying Country Supplies
 - 7-104.41 - Audit By Department of Defense
 - 7-104.44 - Value Engineering
 - 7-104.93 - Preference for Domestic Specialty Metals

Copies of the DAR may be obtained from the Government Printing Office, Washington, D.C.

NOTICE OF PROSPECTIVE SUBCONTRACTORS OR REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES: A Certification of Nonseregated Facilities, as required by the May 9, 1967 order of Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg 7439, May 19, 1967), must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).
NOTE: The penalty for making false statements is prescribed in 18 U.S.C. 1001.