

WILLIAMS PATENT CRUSHER & PULVERIZER CO., INC.

2701 NORTH BROADWAY ST. LOUIS, MISSOURI, U.S.A. 63102

TERMS AND CONDITIONS OF SALES

THIS QUOTATION IS MADE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS

1. Prices: Unless otherwise stated, prices are f.o.b. factory, are based on current price lists and are subject to adjustment for increased cost at time of shipment, in the form of surcharge. Purchaser shall pay any applicable sales, use or other local tax. Special loading, crating, painting or packing, when specified by the Purchaser, is to be charged at additional cost.
2. Payment: Amounts due Seller are payable at Seller's St. Louis office. Amounts not paid within the time specified in Seller's acceptance of Purchaser's order shall bear interest at the rate of 1 ½ % per month until paid. If in Seller's opinion the financial condition of the Purchaser at any time does not justify continuance of production or shipment on the terms of payment specified or if Purchaser's account with Seller is not current, Seller may require full or partial payment in advance.
3. Orders for Export: Orders for export will not be shipped until Purchaser obtains irrevocable letter of credit from prime U.S. bank. Purchaser shall pay any export or import duties.
4. Shipping Dates: Completion dates and shipping dates are approximate and are based on prompt receipt of all necessary information from Purchaser. Seller shall not be liable for delay due to fire, flood, strike or other labor difficulty, act of any governmental authority or of the customer, delay in transportation, inability to obtain necessary materials from usual sources or due to any other cause beyond its reasonable control. In the event of delay due to any such cause, completion date or shipping date will be postponed by such length of time as may be reasonably necessary to compensate for the delay.
5. Installation: Installation shall be by and at the expense of Purchaser.
6. Design Changes: Seller reserves the right to make minor changes or improvements in design and construction.
7. Infringement: Seller agrees to defend any suits brought against Purchaser for alleged infringement due to construction or design of Seller's machinery but does not agree to defend infringement suits in combination with other equipment or suits involving process patents.
8. Limitation of Liability: The liability of Seller with respect to any contract with Purchaser, or anything done in connection thereto, such as the performance or breach thereof, or the manufacture, sale, delivery, installation, maintenance, repair or use of any equipment covered by or furnished under such contract, whether in contract, in tort or otherwise, shall not, except as expressly provided in paragraphs 7 and 10, exceed the contract price.
9. Exclusion of Damages: Seller shall not be liable in contract, in tort or otherwise, for special, indirect, incidental or consequential damages, such as, but not limited to, damage to or loss of other property or equipment, loss of use of any property or equipment, loss of profits or revenue, loss of capital or claims for business interruption.
10. Warranty: Seller warrants that goods sold by it and repairs or other services performed by it will be of the kind and quality described in Seller's acceptance of Purchaser's order and will be free of defects in workmanship or material. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTY OF QUALITY WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Should any failure to conform to this warranty appear within six (6) months after the date of shipment, Seller shall correct such nonconformity by repair or replacement f.o.b. factory, provided that (a) the goods sold or serviced shall not have been subjected to alteration, misapplication or misuse, (b) Seller's St. Louis Office is notified in writing within 30 days from date such nonconformity appears, (c) the goods are returned for inspection, transportation charges prepaid by Purchaser, and (d) the goods or services shall have been paid for in full. This warranty does not extend to any equipment which is not of Seller's make and carries the warranty of its manufacturer. Correction of nonconformity, in the manner and for the period of time provided above, shall constitute fulfillment of duties of Seller with respect to the quality of goods or services are for the mutual benefit of Seller and Purchaser and shall not operate as a modification or waiver of this paragraph or enlarge the Purchaser's rights in any way.
11. Combustion Prevention: Inert gas, sufficient to prevent combustion, should be introduced into the equipment if combustible, flammable or explosive material is being processed. Seller, not controlling the operation or maintenance of the equipment after sale or repair, shall not be liable for any damage or loss caused by fires or explosions.
12. Safety Devices: The equipment is provided with only those safety devices specifically identified. It is the responsibility of Purchaser to furnish and install any other safety devices in compliance with OSHA Standards as well as those desired by Purchaser or required by law.
13. Purchaser's Warranty and Indemnification: Purchaser warrants (a) that the equipment purchased shall be used only for processing the types and sizes of materials for which it has been manufactured and designed, (b) that Purchaser will use such equipment in full accord with the Instructions contained in Seller's Safety Procedures for Operation of Williams Equipment in any and all warnings placed upon such equipment by Seller, and (c) that Purchaser will instruct its employees and other persons who may perform work on maintenance upon the equipment purchased, or cause them to be instructed, as to the contents of Seller's Safety Procedures for Operation of Williams Equipment and any and all warnings placed upon such equipment. Purchaser agrees to indemnify and hold harmless Seller from and against any damages, expenses and costs incurred or suffered by Seller by reason of any claims or demands against Seller arising out of or in any way connected with the breach of any of Purchaser's warranties contained in this paragraph.
14. Risk of Loss: Risk of loss or damage to the equipment shall pass to the Purchaser upon delivery of such equipment f.o.b. factory. Claims for loss or damage incurred in transit should be filed by Purchaser with the carrier. The equipment sold shall remain the property of Seller until paid for in cash.
15. Cancellation: Orders cannot be cancelled except with the written permission of Seller. Cancellation will not be permitted without payment by Purchaser of a cancellation charge to be determined by Seller. This charge will depend upon Seller's expenses and commitments and the progress of engineering and fabrication, and shall be not less than 15% of the purchase price.
16. General Terms: Any contract with Purchaser is limited to the terms and conditions set forth in this document and any attachments. Other technical advice or statements, oral or written, regarding performance, capacity or condition of Seller's equipment are made in good faith based upon Seller's observation, experience and judgement and shall not in any case constitute a basis of any claim against Seller. All other terms and conditions are rejected. No modification or waiver of these terms and conditions shall be effective unless evidenced by a writing signed by the sales manager or a corporate officer of Seller. Seller's acceptance of any order is conditioned on the Purchaser's assent to the terms and conditions herein. Any contract with Purchaser shall be deemed to have been made in the State of Missouri, shall be governed by the law of Missouri, and any legal action connected with any such contract may be brought in the City of St. Louis.