



**ENGINEERED  
PRODUCTS**  
A PAPE COMPANY



Overhead Door  
Company of  
Seattle™



Overhead Door  
Company of  
Salinas™



Overhead Door  
Company of  
Santa Clara Valley™

## **Overhead Door Terms and Conditions:**

### **1) AGREEMENT**

- a) Estimate. This quotation is not a contract. It is a good faith estimate of the cost to purchase and, if provided on the quotation, install the material(s) quoted based on the information known by Seller on the date of the quotation.
- b) Acceptance. No contract will exist until acceptance of this offer/quotation in writing by an authorized agent of Buyer, is received by Seller. Any acceptance of this quotation, and any sale of products or services, shall be limited to these terms and conditions and any additional terms listed on this quotation or any addendum provided by Seller ("Terms"). Any provision of products or services shall be subject to these Terms and shall not be subject to any additional, conflicting or different terms contained in any acceptance, purchase order or similar document proposed by Buyer.
- c) Entire Agreement. The quotation and these Terms will constitute the complete and exclusive agreement between the parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions, guarantees, or obligations whatsoever, either express or implied, other than as set forth in these Terms will be binding on either party. This quotation supersedes all prior written and oral negotiations concerning the subject matter hereof.
- d) Withdrawal / Expiration. Seller will have the right to withdraw this quotation at any time prior to its acceptance of Buyer's purchase order. Unless stated otherwise, this quotation expires seven (7) days from the date hereof. This quotation should be considered invalid or withdrawn in the event any of these Terms are unacceptable to Buyer.

### **2) PRICING AND PAYMENT**

- a) Pricing. All prices are in U.S. Dollars. All pricing is based upon Buyer's acceptance of materials within the manufacturer's current lead times.
- b) Unit Pricing. Unit pricing may be provided for the convenience of Buyer. Changes to the overall scope of work assumed in the quotation may adversely impact unit prices.
- c) Labor. Unless otherwise provided in the quotation:
  - i) Pricing excludes labor and installation.
  - ii) If labor is provided, pricing is based on installation by non-union labor and non-prevailing wage in a free and clear work area at ambient temperatures from 7 am – 5 pm on non-holiday weekdays (overtime, weekends, statutory holidays and evening work are an additional cost).
  - iii) Pricing excludes additional costs associated with work performed under a Project Labor Agreement (PLA) or Collaborative Work Agreement (CWA) or similar agreement.
  - iv) Labor rates are based on actual time spent and materials used.
- d) Shipping. Unless otherwise provided in the quotation, quoted shipping terms are FOB point of manufacture. Shipping method will be specified by Buyer or, if shipping method is not specified, Seller will use an appropriate shipping method.
- e) Payment. Full payment is due according to the terms in the quotation, but in no event later than 30 days from the date of invoice. If payment is not made when due, Buyer will pay the lesser of a late charge of 1½ percent per month of the unpaid balance or the highest interest rate allowed by applicable law, plus any collection costs, including court costs and attorneys' fees. Payment will in no event be delayed if such delay is related to issues outside of Seller's scope of work.
- f) Surplus Materials. No credit will be provided to Buyer for surplus materials, if any, provided by the manufacturer(s).
- g) Used Materials. All used materials are subject to availability and sold "as-is" and on a first come, first served basis.
- h) Site Verification. Final design and pricing are subject to site verification. Changes in site conditions may result in modification to design and pricing.
- i) Increases in Freight/Material Costs. Pricing is based on freight and materials

costs in place as of the date of the quotation. Any increase in freight or aggregate materials costs will result in a corresponding adjustment to the quoted price in the full amount of such increase plus 10%. Seller will notify Buyer of any such increase promptly upon becoming aware thereof, and the parties agree to amend the purchase order accordingly.

- j) General Exclusions. Unless otherwise stated in the quotation, bonding costs, expedite fees, overtime, stand by and testing charges are excluded and will be added to pricing.
- k) Itemized Charges. The total amount due from Buyer may include various itemized charges, including but not limited to recovery of Seller's estimated Oregon Corporate Activity Tax. When required by applicable law, fees imposed by governmental authorities are collected by Seller and paid to the appropriate government office. All other charges, including recovery of the Oregon Corporate Activity Tax, are retained by Seller. The charges are designed to offset expenses incurred in Seller's provision of the materials and/or services and may not accurately reflect the actual expenses incurred in any given case. If Buyer has questions regarding its statement or amounts charged therein, please contact customer service.
- l) Title. Title to all materials sold will remain with Seller until all indebtedness of Buyer related to such materials has been paid in full. In the event of attachment or execution being levied against the materials or any default by Buyer in payments due to Seller, Seller may, in addition to all other rights and remedies available to it, seize the materials and all payments made up until the date of such repossession will be considered rent for the materials.
- m) Administrative Charge. A minimum administrative charge of \$5 will apply to all orders.
- n) Credit Card. Maximum transaction value for credit card payments is \$5,000.00.

### **3) DELIVERY**

- a) Stated or promised delivery or service dates are estimates only based upon Seller's judgment and Seller will not be responsible for deliveries of materials or services occurring later than promised, regardless of the cause.
- b) Delivery periods or dates are projected from the date of receipt by Seller of a purchase order, but if materials to be furnished by Seller are to be manufactured specifically to fill a particular purchaser order, delivery periods will be projected from the date of Seller's receipt of complete manufacturing information, including blueprints and specifications.

### **4) CANCELLATION/RETURNS**

Materials normally stocked by Seller may be returned by Buyer to Seller within 10 days of receipt, subject to a 25% restocking fee and verification that materials are in "like new" condition.

- a) All costs for freight upon return of materials are the obligation of Buyer.
- b) All orders for non-stock/custom-materials may not be cancelled, nor may such materials be returned for re-stock.

### **5) OTHER**

- a) Installation, Use and Maintenance of Materials. Buyer will install (if applicable), use and maintain materials in accordance with applicable codes, industry standards and manufacturer recommendations.
- b) Subcontracting. Seller reserves the right to utilize third party subcontractors for installation of materials.
- c) Imperfections. Metal products may develop minor dents, scratches, oxidation and other blemishes during freight and installation. Buyer agrees that such blemishes do not justify a claim by Buyer for damaged or defective materials.
- d) Alterations. Alterations represent work performed in addition to the original specifications. Additional work will be charged at current rates with supporting documentation provided upon request.

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Rev 3-27-2025



- e) Access to Work.  
i) Buyer agrees to keep all driveways clear and available for movement and parking of trucks during installation.  
ii) Buyer agrees to grant free and unobstructed access to work areas for workmen and vehicles and will allow areas for secure storage of materials and rubbish.

**6) WARRANTY**

- a) Any warranties for materials supplied are strictly given by the manufacturer only. Copies of the manufacturer's warranty will be provided by Seller on request. Seller provides no warranty on used materials, which are supplied "as is." Seller warrants labor performed to be free from defects in workmanship for a period of one year from the date the work was completed. THIS WARRANTY IS THE EXCLUSIVE WARRANTY GIVEN BY SELLER AND SUPERSEDES ANY PRIOR, CONTRARY, OR ADDITIONAL REPRESENTATIONS OR WARRANTIES, WHETHER ORAL OR WRITTEN. SELLER HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING (1) WARRANTY OF MERCHANTABILITY, (2) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (3) WARRANTY OF TITLE, AND (4) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.  
b) Seller's warranty does not extend to any defect, claim or damage attributable to the failure of Buyer or any third party to operate and/or maintain equipment in accordance with industry standards, any recommendation of Seller, or the manufacturer's requirements.  
c) Seller's warranty extends only to the original buyer or consumer if sold by Buyer to a third party for resale.

**7) INDEMNIFICATION**

Buyer will indemnify and hold harmless Seller and any manufacturer and their successors and assigns against all loss, damage, liability, claim or action ("Losses") arising out of or related to: (a) Buyer's modification of the materials supplied hereunder, and (b) Buyer's failure to use or maintain the materials in accordance with industry standards, any recommendation of Seller, or the manufacturer's requirements.

**8) INSURANCE**

- a) Seller will carry the following insurance for the duration of the work: Commercial General Liability Bodily Injury/Property Damage: \$1,000,000.00 each occurrence, total aggregate \$2,000,000.00. Products Completed Operations Aggregate Limit: \$2,000,000.00. Excess/Umbrella Liability: \$5,000,000.00 per occurrence, \$5,000,000.00 aggregate.  
b) Insurance for Seller's subcontractors will be limited to \$1,000,000.00 of liability coverage per occurrence with \$2,000,000.00 of General Aggregate.  
c) Certificates of insurance evidencing the above coverages will be provided upon request.  
d) Any coverages or limits beyond those listed above must be reviewed and accepted by Seller in writing.  
e) Acceptance of third party issued project insurance is subject to Seller's review of the proposed policies/coverage. Seller will not accept a reduction in the contract price for accepting project specific insurance.

**9) LIMITATION OF LIABILITY**

SELLER WILL NOT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSSES:

- i) RELATING TO THE USE OR OPERATION BY BUYER OR ANY THIRD PARTY OF ANY MATERIALS FURNISHED HEREUNDER CONTRARY TO INDUSTRY STANDARDS OR MANUFACTURER'S OR SELLER'S INSTRUCTIONS OR SPECIFICATIONS,  
ii) RELATING TO ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, TRADEMARK OR SIMILAR RIGHTS IN THE MATERIALS, AND  
iii) RESULTING IN CONSEQUENTIAL (INCLUDING, WITHOUT LIMITED

TO, LOST PROFITS AND DOWN TIME), INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE,

- b) These exclusions apply regardless of whether such damages are sought for breach of warranty, breach of contract, negligence, or strict liability in tort or under any other legal theory, even if Seller has been advised of the possibility of such damage.

**10) CLAIMS**

- a) All claims for shortages, delivery delays, damages or non-delivery must be made by Buyer or its consignee to the carrier. Seller will in no event be responsible for shortages in shipments unless notice of such shortage is also given in writing to Seller within fifteen (15) days after Buyer's receipt of shipment.  
b) Buyer has one year from the accrual of any cause of action to commence legal action arising from the purchase or use of any materials or services performed.

**11) MISCELLANEOUS LEGAL**

- a) Choice of Law/Venue. All orders will be governed by the laws of the State of Oregon without regard to conflict of laws principles. Any claims arising under any agreement resulting from this quotation will be brought in the appropriate court in Lane County Oregon. The parties agree that the prevailing party shall be entitled to all costs and expenses including, without limitation, court costs and reasonable legal fees, in any action commenced relating to a dispute arising hereunder.  
b) Force Majeure. Seller will be not liable for any failure to perform according to the terms hereof or any agreement arising hereunder to the extent caused by an event or condition beyond Seller's reasonable control, including but not limited to natural disaster, act of war or terrorism, riot, pandemic or epidemic, labor condition, substantially increased supply prices, or governmental actions.  
c) Severability. The provisions hereof will be severable so that unenforceability, invalidity or waiver of any provision will not affect any other provision.  
d) Waivers. The waiver by either party or the failure by either party to claim a breach of any provision hereof shall not constitute a waiver of any subsequent breach or affect in any way the effectiveness of that provision, unless made in writing and signed by the party to be charged.  
e) Successors and Assigns. These Terms are binding upon and for the benefit of the parties, their successors and their permitted assigns. Buyer may not assign or otherwise transfer any interest in this quotation or in any agreement arising hereunder, in whole or in part, without the prior written consent of Seller.

**12) INSTALLATION SERVICES**

- a) Unless otherwise included in the quotation, the following are the sole responsibility of Buyer and excluded from Seller's quotation:  
i) General Exclusions.  
(1) Preparation of Site. Preparation of site, removal of all obstructions to accept equipment, and cutting, patching and painting of site to prepare for installation.  
(2) Stain and Paint Preparation. Wood doors are delivered to the job site or purchaser's finishing/paint facility with no priming. Prior to installation and immediately after delivery, wood doors should be primed/sealed/finished on all surfaces and edges per manufacturer's requirements. Wood doors will NOT be installed without proper prime/seal/finishing and a minimum of two weeks of cure time. Do not allow surfaces to absorb moisture before painting, stain or varnish. Natural finishes do not offer proper protection. All touch up, sanding, filling and painting of materials are excluded.  
(3) Steel doors are delivered and installed with prime coat only, finish paint by Buyer.  
(4) Finishes. Field paint, finish paint or other specialty colors or finishes to all materials other than the standard factory finish.  
(5) Security. All security, including 24-hour security or security during any point of the installation.



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- (6) All Inspection Fees and Assessments. All inspection fees and assessments, including engineering costs.
- (7) Removal/Clearing. Removal of existing products including demolition, disposal, or haul-away of existing materials and clearing of the work area 10' back and 1' to either side of the door opening, including clearing garage floor of vehicles. Note: Seller will not be responsible for damage to any personal property not removed or cleared from the work area.
- (8) Other
  - (a) Temporary door closures and/or protection of existing finishes
  - (b) All specialized reinforcement to support equipment
  - (c) Product modification to accommodate building conditions
  - (d) Glass, glazing, field paint, finish paint or other specialty colors or finishes
  - (e) Openings (to be prepared by Buyer in accordance with Seller's specifications)
- ii) Special Exclusions for Commercial, Multi-Tenant and Mixed-Use Applications
  - (1) Electrical
    - (a) All electrical interconnection including primary and low voltage wiring of controls, push buttons, disconnects, motors, photo eyes and limit switches
    - (b) All installation, supply of wiring and conduit including core drilling of walls and floors
  - (2) Mounting and electrical work of all door accessories, including but not limited to, push button stations, key switches, and other control stations
  - (3) Structural calculations and/or wet stamped engineering by a registered engineer
  - (4) Preparation of Door Openings
    - (a) Preparation of door openings (to be prepared by Buyer in accordance with manufacturer specifications).
    - (b) Verification that the mounting structure provided is adequate to mount and support the door and all its components.
    - (c) Backing to mount door tracks, guides, springs, and operators by Buyer.
  - (5) Permits
  - (6) Note: Product Load Data Sheets available upon request.
- iii) Special Exclusions for Residential Applications
  - (1) Installation of a mandatory ceiling mounted electrical outlet
  - (2) Temporary door closures and protection of existing finishes
- iv) Special Exclusions for Dock Equipment
  - (1) Dock Pits and Curb Steel
  - (2) Dock Embed Steel

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