



TERMS AND CONDITIONS

The following terms (the "Terms") apply to any customer ("Customer") purchase of any General Shale product ("Product").

1. Orders by Customer may be submitted by signed purchase order, which orders shall not be binding until written confirmation by General Shale. These Terms shall control over any Customer purchase order or document. General Shale shall not be liable for any delay or failure to deliver any Product in case such delay or failure is caused by labor disputes, strikes, war, riots, insurrection, civil disturbance, fire, flood, accident, storm or any act of God, delays of common carriers, failure of supplies or other causes beyond General Shale's control. When Distributor Customers place a purchase order, a shipping schedule must be included before the material can be scheduled for manufacture. This shipping schedule will be subject to availability in effect on date received.
2. All prices to include those on General Shale's price list are subject to change for any reason including increased plant and other charges at the time of sale. Pricing does not include state and/or local taxes, all of which are Customer's responsibility. General Shale reserves the right to require pre-payment for special order or custom Product and/or storage charges in the event Customer delays scheduled delivery. Special Production products are produced **only** after a purchase order has been received and **will be priced at 20% above FOB list price**. All shapes or any item not listed as a Stock item which have been ordered and produced, must be paid for whether taken or not. If material is paid for and not taken it will be subject to sale or disposal by General Shale. Cancellation is not permitted after production has started.
3. Distributor Customer: Product is sold "FOB Origin-Freight Collect" and title and risk of loss transfers to Customer upon tender to Customer's carrier. Direct Customer: All risk of loss transfers to Customer upon delivery to Customer or Customer's carrier or agent. All Customers: Customer will inspect the goods immediately upon receipt and report loss or damage within 24 hours to the carrier and General Shale or be barred from any claim. Customer will provide General Shale with written notice of any claimed defect or breach of warranty (including claims from Customer's purchaser or any end user) as soon as possible and will, to the maximum extent possible, assist General Shale in minimizing any damage(s) resulting from any claimed defect or breach of warranty. Distributor Customer: Demurrage begins 24 hours after actual or constructive placement of all cars shipped on 150,000-pound rates.
4. Invoice terms are net 30 days unless different terms have been applied to an individual account. In the event action is taken to collect from Customer, Customer shall be responsible for all costs incurred by General Shale, including reasonable attorney fees. A 1.5% finance charge will be assessed on past due balances at time of statement.
5. Distributor Customer shall insure that all Product conforms to General Shale's specifications before re-sale and that all packaging, including product literature and instructions, are in good order and delivered to Product purchasers. Direct Customer shall insure that all Product conforms to project specification before installation and that all packaging, including product literature and instructions, are delivered to Customer's purchaser or any end user. Customer shall indemnify, defend at its cost and hold General Shale harmless for, from and against any and all claims, causes of action, damages, fines, judgments, penalties, costs, liabilities, losses or expenses resulting from a breach of these obligations.
6. **General shale makes no warranty that extends beyond the General Shale product description. General Shale specifically disclaims and excludes any implied warranty of merchantability or fitness for a particular purpose. All goods are subject to variations permitted under applicable industry standards, including size, color, texture, chippage or warpage. Samples (including cards) are illustrative only and may not serve as the basis for any product warranty. Product use or resale is acceptance as conforming goods.**
7. **Customer's sole and exclusive remedy with respect to any product defect, non-conformity or breach of warranty shall be pre-installation product replacement. In the event that pre-installation replacement cannot in General Shale's judgment be made, then General Shale may elect to refund the product purchase price as the sole and exclusive remedy. General Shale shall not be responsible for any consequential, special or incidental damages for any reason, including, but not limited to any damages for replacing or removing any brick, stone, masonry or other product from any structure.**
8. Claims of any nature pertaining to any Product shall be filed in a court of competent jurisdiction within **one (1) year** of delivery or be forever barred. In the event that General Shale successfully defends against any claim filed by Customer, Customer shall be responsible for General Shale's costs of defending said claim(s), including but not limited to reasonable attorney's fees.
9. General Shale reserves, in its sole discretion, the rights to (a) suspend sales, including installment sales, to Customer if any part of Customer's account with General Shale is delinquent, (b) place Customer on credit hold, and (c) demand that all Product is paid for in full prior to delivery. No goods may be returned without prior authorization and all returns are subject to applicable restocking charges.
10. Where local deliveries apply: Truck Deliveries "F.O.B. job site" will be made only on suitable and accessible surfaces. When the Customer requests delivery "inside the curb", Customer assumes all responsibility for mud tracked on streets and for any damage, including sidewalks, driveways, buildings, trees, shrubbery, lawns, silt fence, and any other structure. Delivery in separate lots is permitted.
11. Except as otherwise provided in writing, these Terms supersede any and all prior or contemporaneous understandings, negotiations, discussions or agreements and constitute a complete, exclusive and final written expression of all the terms of sale and any representations, promises, warranties or statements by General Shale or its agents that differ in any way from the terms hereof shall be given no force or effect. Only a writing signed by the President of General Shale may amend these terms. No waiver of any provision herein shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver.