

TERMS & CONDITIONS

Scope of Supply

Triplepoint ("Company") will supply all process expertise and equipment as part of this quote. The customer is responsible for the costs associated with the installation and infrastructure needed, including the concrete tanks, pumps (if required), operations building (as needed), and any influent/effluent/connecting piping that may be necessary.

Acceptance

These terms and conditions of sale supersede all previous editions—and may be updated from time to time as posted to the Triplepoint website—and apply to all documents made and orders accepted by Triplepoint. Acceptance of the Goods by the Purchaser is acknowledgement of acceptance of the most recent Triplepoint terms and conditions of sale. No order for Triplepoint's products or services shall be binding upon Triplepoint until accepted in writing by an authorized official of Triplepoint or by shipment or other performance of such order. Any order shall be subject to these terms and conditions, which in concert with any supply contract shall constitute the entire agreement between the parties, and acceptance shall be expressly conditioned on assent to such terms and conditions by Purchaser, which assent shall be deemed given unless Purchaser shall expressly notify Triplepoint to the contrary within five (5) days after receipt of any acknowledgment of order. No understandings or agreements which differ from, modify, or add to these terms and conditions and no additions, deletions, or modifications proposed by Purchaser in its printed forms or otherwise shall bind Triplepoint regardless of whether or not such understandings, agreements, additions, deletions, or modifications would materially alter the terms hereof, unless made in writing and signed by both parties. All purchase orders or contracts must be approved and accepted by Triplepoint. Stenographic and clerical errors are subject to correction.

Cancellation, Suspension, or Returns

No accepted offer may be cancelled or altered by Purchaser except upon terms and conditions accepted by Triplepoint in writing, and no changes to this document will be binding unless set forth in writing and manually signed by Triplepoint. This offer may be revoked by Triplepoint at any time before it is accepted by Purchaser and will automatically expire thirty (30) calendar days after its date if Purchaser has not accepted it before then. Neither Purchaser of this offer nor any conduct by Triplepoint (including but not limited to shipment of Goods) will oblige Triplepoint to sell to Purchaser any quantity of Goods in excess of the quantity that Purchaser has committed to purchase from Triplepoint at the time of such acceptance or conduct. Requests to cancel, suspend, or return a PO or portion thereof shall not be accepted without prior written approval from Company. All Goods returned to Company must be in full containers or cases, unopened and in the same conditions as when delivered. All costs to return are borne by the Purchaser and a fifteen percent (15%) fee may be charged at Company's option. Costs incurred by Company of all work completed, or Goods purchased in execution of Purchaser PO at time of approved cancellation will be responsibility of Purchaser. The Purchaser shall indemnify the Company against any loss related to cancellation, suspension, or returns.

Payment Terms

The quote in this proposal remains valid for a period of 15 days. Except as otherwise agreed by Parties on the Purchase Order, payment is net 30 days after shipment.

Amounts past due are subject to a service charge of 1.5% per month, 18% per annum, on the unpaid balance. The Company reserves the right, among other remedies, to delay or suspend further shipments or require full or partial cash payment in advance until all sums due have been paid. Purchaser shall be liable for all costs and expenses incurred by the Company in collecting any overdue amounts, including without limitation reasonable attorneys' fees. Any pro-rata payments required hereunder shall be made as shipments are made.

A 3.5% processing fee will be added to payments made by credit card.

Credit Approval

All payment terms set forth in this document are subject to Company's approval of Purchaser's credit, at Company's discretion; if such approval is withheld, payment will be due in advance of Company's performance. Performance of any contract by the Company is contingent upon Purchaser credit approval. Credit may be waived in lieu of a project materials payment bond. A materials payment bond supplied to the Project Owner or Engineer by the Purchaser is acceptable. Triplepoint reserves the right to hold shipment on delinquent accounts.

Material Cost Escalation

If at any time the cost of materials quoted here significantly increases, through no fault of Triplepoint, the price shall be equitably adjusted by an amount reasonably necessary to cover any such increase in the costs of materials. As used herein, a significant cost increase shall mean any increase in cost of materials exceeding five percent (5%) experienced by Triplepoint either before or after a PO is issued. Such increase in material costs may be documented by quotes, invoices, or receipts. Where the delivery of materials is delayed, through no fault of the contractor, as a result of the shortage or unavailability of the materials, contractor shall not be liable for any additional costs or damages associated with such delay(s).

Currency & Taxes

Unless otherwise noted, all quotes are in United States dollars. This price does not include local taxes and/or duty fees/taxes. Sales tax exemption certificate must be submitted when applicable. All non-exempt taxes will be self-assessed and payable by the customer to the local tax authority.

Design Limitations

The preliminary design(s) presented in this document were calculated with information provided at the time of proposal request. The design is only as good as the information provided. If incorrect or incomplete data was provided, assumptions have been made in order to develop the finished design. Prior to product installation, design properties and considerations must be reviewed and validated by the purchasing parties.

Delivery; Storage

Unless otherwise agreed to by Company in writing, all shipments are EXW Company's warehouse. Regardless of shipping terms or freight payment, Purchaser will bear all risk of loss or damage in transit. Company reserves the right to make delivery in installments, unless otherwise expressly stipulated herein; all such installments to be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment will not relieve Purchaser of its obligations to accept remaining deliveries.

Shipping dates are estimates only and are subject to Company's lead time policy. Company shall make all reasonable efforts to have Goods delivered to Purchaser on or about the date or within the time frame of the Order, but Company shall not be liable for any failure or delay in delivery for any reason. Statements as to expected date of hardware shipment represent the Company's best judgment, but shipment on those dates is not guaranteed. The Company will endeavor to meet the scheduled date(s) but cannot be held responsible for its failure to do so for causes beyond its reasonable control and in no event shall it be liable for any loss or damage resulting from its failure to deliver within the time specified herein. The Purchaser hereby waives all claims to damages caused by delay in shipment or delivery of hardware. Great care is taken in packing Company's Product. Company cannot be held responsible for damage after having received "in good order" receipts from the transportation company. All claims for loss and damage must be made by Purchaser to the carrier.

Purchase orders issued by Purchaser and placed with Company are irrevocable and Purchaser is contractually obliged to take delivery and pay for all Goods ordered and supplied or made available by Company pursuant to such purchase order. If the Company does not receive forwarding instructions sufficient to enable it to dispatch Goods within fourteen (14) days after notice to Purchaser that such Goods are ready, Purchaser shall be deemed to have taken delivery from such dates and Company will store all items at Purchaser's risk and expense, and will invoice Purchaser for any remaining unbilled contract price plus one-half percent (½%) of the total contract price for each month the shipment is delayed and a fee of One Hundred Dollars (\$100.00) per day for storage and maintenance. Unless otherwise agreed upon by the parties in writing, if Purchaser does not accept delivery or collect Goods from Company when made available at the agreed delivery point in accordance with the Contract, Purchaser also will reimburse Company for any demurrage, transport, or futile delivery costs incurred by Company.

Installation Supervision

If included, a Triplepoint certified project manager will provide supervision of installation, inspection, testing, training, and startup for a minimum of two (2) days during installation.

Force Majeure

Shipments or deliveries may be totally or partially suspended or delayed by Company during any period in which the Company may be prevented or hindered from manufacture, delivery, or supply through any circumstances outside Company's reasonable control or where manufacturing, delivery, or supply is rendered materially more expensive by such circumstances.

Circumstances beyond Company's reasonable controls shall include but are not limited to governmental regulation, flood, wind, labor disputes, accident, power or water shortage, accidents or breakdowns or failures of plant or machinery, transportation, fires, strikes, war, reduced supply of fuel or raw materials, embargo, riot, act of God, or any other cause or causes, whether of like or different nature, beyond the reasonable control of Company. Company shall not incur any liability to Purchaser in respect to such suspension or delays. Purchaser shall bear any costs incidental to Purchaser's delay or failure in acceptance of Product or any other performance.

Inspection

Purchaser shall promptly examine the Goods for any damage or shortage or failure of the Goods to comply with the Company's standard sales specifications or the specifications contained in or referenced in the Contract. Claims will not be allowed unless written notice specifying the nature and extent of the defect, damage, or shortage is received in the Company's office within fourteen (14) days from unloading—unless the defect, damage, or shortage is of such a nature that it would not be reasonably discovered until the material is assembled and/or erected as a finished product; then the fourteen (14) days will begin from the date of commencement of assembly and/or erection. All claims for damage in shipment, or shortage of Goods received, shall be deemed waived unless made in writing and received by Company.

Limits of Liability

To the extent permitted by law and notwithstanding any provision to the contrary in the contract, in no event shall Company be liable and Purchaser waives all claims against Company for consequential, incidental, indirect, exemplary, punitive, or special damages, whether or not based upon Company's negligence or breach of warranty or strict liability in tort or any other cause of action arising, directly or indirectly, in respect to the product or services covered hereunder, or the use or failure thereof, including, but not limited to, damages for loss of production, loss of profits, loss of business revenues, loss of capital, failure to realize expected profits or savings, overhead costs, loss by reason of service interruption or increased expense of operation, loss of goodwill, loss of reputation, loss of value in any intellectual property, damages or liquidated sums payable pursuant to other agreements or to other third parties, other economic losses, or injury to persons or property. In any event, Company's maximum liability shall be limited to repair or replacement of parts but shall not exceed fifteen percent (15%) of the purchase price of the product(s) and services furnished by Company hereunder that gave rise to any liability. The provisions of this paragraph shall survive the expiration or termination of this agreement. This disclaimer shall remain in full force and effect even in the event that Purchaser's sole and exclusive remedy shall fail in its essential purpose.

Indemnification

Purchaser will indemnify and hold harmless Company from and against any and all losses, liabilities, damages, and expenses (including but not limited to Attorney's Fees and other costs of defense) that Company may incur as a result of any claim, other than a claim for the remedies provided for in the Triplepoint standard warranty, by Purchaser or Purchaser's customers or by any third party arising out of or relating to the goods or services sold hereunder, including but not limited to any such claim based upon the negligence of Company in designing, manufacturing, performing and/or selling such goods or services, unless such losses, liabilities, damages, or expenses are ultimately determined to be attributable solely to the willful misconduct of Seller.

Insurance

The Purchaser agrees to provide and maintain for the benefit of the Company adequate insurance for the equipment herein specified from the time of its shipment from Triplepoint until paid for in full and the Purchaser agrees to assume all loss over and above that compensated for by such insurance. The Purchaser shall procure and pay for all public liability insurance during the installation of any Triplepoint provided equipment.

Attorney Fees

For any suits brought or retainage paid to attorneys to collect any part of the purchase price or to enforce any provision herein, the Purchaser will pay Triplepoint attorney fees and related expenses including an administrative fee equal to the attorney fees.

Bankruptcy, Receivership, or Insolvency Proceedings

Should bankruptcy, receivership, or insolvency proceedings be instituted by or against the Purchaser or should the Purchaser make an assignment in favor of creditors, the unpaid balance of the purchase price shall immediately become due and payable at the option of the Company. Notwithstanding other arrangements to the contrary, the Company shall be free to enter premises where equipment for which the Company has not been fully paid may be located and remove said equipment as its property without prejudice to any further claims on amounts of damage which the Company may suffer from any cause.

Governing Law

Any document for equipment supply made by the Company as well as any contract between the Company and the Purchaser are deemed to be executed in Colorado, USA, subject to correction for typographical or mathematical errors and governed by Colorado law.

Arbitration

Any controversy or claim arising out of or relating to this contract/order or breach thereof will be finally settled by arbitration in accordance with the Rules of Commercial Arbitration of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction over the controversy or claim in the State of Colorado. Arbitration proceedings shall occur in the county of residence of Company in the State of Colorado.

Recommended Influent Screening

Due to the presence of sanitary wipes and/or other debris in influent collection systems, influent screening is highly recommended. Triplepoint has consistently found that aeration systems of all types collect rags, which ultimately prevent proper operation. Screening down to one-quarter inch (1/4") min. is recommended.

Confidentiality Notice

The NitrOx® and Ares Aeration® processes are the subject of one or more confidential patents or patent applications filed in the United States Patent and Trademark Office and may be the subject of one or more confidential foreign patent applications. The customer and any other related parties contracted recognize the importance of maintaining the continued confidentiality of the design of the NitrOx and Ares Aeration processes. The customer and any other parties contracted all agree that they shall not sell, transfer, or disclose any such confidential information relating to the design of the NitrOx and Ares Aeration processes to any other person, organization, or corporation without the express written authorization of Triplepoint LLC and pursuant to an enforceable agreement of confidentiality, except as required by law or as necessary in connection with the use, operation, maintenance, repair, or replacement of the system. Additionally, the customer and any other parties contracted all agree to preserve the confidentiality of this proposal and all materials attached and not to distribute or copy such materials for any other parties not previously authorized by Triplepoint.

Warranty

Triplepoint warrants your aftermarket parts to be free from defects in material and workmanship for a period of one (1) year. If a defect is discovered in any of the constituent components covered by this warranty, Triplepoint will repair at our option using new or refurbished components for equal or improved quality. If a suitable repair is not possible, the product will be replaced. All defective parts, assemblies, and products become the property of Triplepoint. Any soft costs incurred during a warranty claim, including costs associated with removing, shipping, and reinstalling a warranted component, shall be the responsibility of the customer. Warranty is voided in the event issues are caused due to excessive existing sludge and/or ragging which inhibit proper operation.

Confidentiality

Purchaser acknowledges that the information and processes utilized by Company in the design, manufacture, and supply of its products and systems are confidential and proprietary to the Company. Purchaser agrees to treat as confidential and proprietary any such information or processes, including, but not limited to, design information or data, proposals, software, schematics, drawings, operational and maintenance manuals, testing procedures, or other similar technical information ("Confidential Information") provided by the Company in connection with the supply or installation of products or systems hereunder, and will, at a minimum, protect any such confidential information in a manner commensurate with the measures taken to protect Purchaser's own confidential or proprietary information. The Company retains all rights, titles, and interests in all such Confidential Information and Purchaser shall not use or otherwise disclose to any third party any such Confidential Information except to the extent authorized by the Company in writing.

BABAA Compliance

We are proud to comply with the Build America, Buy America (BABA) Act, P.L. 117-58, §§ 70911–70917). Triplepoint's Ares Aerators® are assembled in our Centennial, Colorado, factory from components manufactured within the United States by Triplepoint or sourced from American suppliers. This qualifies our products as produced in the United States as defined in the Act: All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

Special Condition

This quotation is prepared based on the usual and known import tariffs. Should import tariffs be levied, the cost will be added to the contract value.