PLAINTIFF'S EXHIBIT
JM 1025

Johns-Manville

Pre-Engineered Building Systems

PEBS-7:1
EFFECTIVE: 2-1-81
CANCELS: PEBS-7:1, 9-1-80

# THERMAL-ACOUSTICAL AND SOUND CONTROL FIBER GLASS BATTS

## LAMINATOR—DISTRIBUTOR

# PRICE LIST

## Building Systems Division

# Terms and Conditions of Sale

I. **DEFINITION:**
As used herein, the term "J-M" shall mean Johns-Manville Sales Corporation.

II. **TERRITORY:**
Prices apply on shipments within the 48 contiguous United States.

III. ***ACCEPTANCE OF ORDERS:***
No order placed with J-M shall be considered as accepted until acknowledged in writing by J-M. The terms and conditions stated herein shall constitute the entire Sales Agreement between the parties, and any contrary additional terms or conditions submitted by parties other than J-M shall be deemed to be of no effect. J-M reserves the right to select its own customers and the right to reject any order.

IV. **PRICES:**
A. All prices are subject to change without notice and the price, terms and conditions of sale shall be that in effect at the time of shipment.

All prices are FOB shipping point with transportation charges as outlined in Paragraph IX below.

B. Price Advances – Should J-M increase prices, it reserves the right to establish a period within which it will accept and ship orders at the lower prices in effect immediatly prior to the advance.

C. Price Declines – Unshipped orders on hand and shipments in transit (as determined by date of paid freight bill) at the time a reduction in our prices becomes effective, will be invoiced at the reduced prices.

D. SMALL ORDER CHARGES. On all orders for less than $75.00 in net material value, a small order handling charge of $25.00 will be added. On orders between $75.00 and $100.00, the handling charge will be scaled down so that the net billing for material, exclusive of transportation charges, if any, amounts to $100.00.

V. **TERMS OF PAYMENT:**
2% 10th proximo, net 30th proximo cash discount will be allowed if payment is made on or before the 10th day of the month following date of invoice. Invoices shall be dated as of the date of shipment. The cash discount will be allowed from the net material value after all trade, competitive, and functional discounts or service commissions; freight absorptions; and any allowances have been deducted.

Shipments made on or after the 25th day of the month will be considered as the next months' business.

VI. **DELIVERY:**
J-M shall not be liable for any delay or default in delivering Products where occasioned by any cause of any kind or extent beyond the control of J-M, including without limitation: armed conflict or economic dislocation resulting therefrom: embargoes: shortages of labor, raw materials, fuel, energy, production facilities or transportation: labor difficulties: civil disorders of any kind: action of civil or military authorities (including priorities and allocations); fires; floods; and accidents. It is intended that no liability shall be sustained by J-M by reason of its not filling any order or portion thereof affected by such occurrence.

VII. **TAXES:**
Any tax or other government charge upon the production, sale or shipment of material now or hereafter imposed by Federal, State, Municipal or other authorities and to be effective within the life of a sales contract shall be added to the price and shall be paid by the purchaser.

VIII. **TYPES OF SHIPMENTS:**
A. Rail Carload – Rail car filled to visible capacity.
B. Truckload – Truck filled to visible capacity.

IX **TRANSPORTATION CHARGES AND ALLOWANCES:**
A. Carload Shipments Freight will he prepaid and full freight charges will be allowed to freight station nearest destination.

B. Truckload Shipments J-M will allow transportation at 65% of the applicable 40 foot C/L rate. The difference will be for the customer's account and will be billed on the face of the invoice.

C. Customer pickups. No freight allowance will be given.

D. J-M Reserves the Right to Route Shipments.

E. All B/L will bear a "No Diversion" statement.

X. **RETURNS:**
No returns of Products will be accepted without prior written approval. Where returns are authorized due to causes for which J-M is responsible, J-M will assume all charges and the full purchase price will be credited. When returns are made for the convenience of the purchaser at his request and these are approved in advance, in writing, by J-M, such Products returned to J-M shipping points will be credited at the purchase price less all freight charges, including stopover charges absorbed by J-M on the original shipment to the purchaser and the full freight charges on the return. J-M will also charge 15% of the original purchase price for handling and reconditioning or the actual charges incurred, whichever is larger. Credit will be based upon the quantity received at J-M's shipping point in resaleable condition, as determined by J-M.

XI. **TITLE:**
Title to the goods described herein shall remain in J-M until paid for in full by purchaser. However, risk of loss shall vest in the purchaser at the time of delivery of Products to the carrier at J-M's plant.

XII. **LIMITED WARRANTY:**
All products sold are subject to the following warranty: J-M WARRANTS FOR A PERIOD OF ONE YEAR FROM DATE OF DELIVERY THAT THE PRODUCT IS FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP. J-M MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABLILTY OR THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THE LIMITED WARRANTY SET FORTH ABOVE. Every claim under this warranty shall be deemed waived unless in writing and received by J-M within thirty (30) days of thedate that thedefect to which each claim relates is discovered or should have been discovered. No person is authorized to alter this warranty orally.

XIII. **LIMITATION OF LIABILITY:**
It is expressly understood and agreed that the limit of J-M's liability shall be, at J-M's sole opition, repair or resupply of a like quantity of nondefective Product and that J-M shall have no such liability except where the damage or claim results solely from breach of J-M's warranty. IT IS ALSO AGREED THAT J-M SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES FOR ANY ALLEGED NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, OR ANY OTHER THEORY, OTHER THAN THE LIMITED LIABILITY SET FORTH ABOVE. INCIDENTAL AND CONSEQUENTIAL DAMAGES SHALL NOT BE RECOVERABLE, EVEN IF THE RESUPPLY REMEDY FAILS OF ITS PURPOSE OR FOR ANY OTHER REASON.

XIV **MODIFICATION OR TERMINATION**
These Terms and Conditions of Sale cancel and supercede all previous issues, supplements and revisions and are subject to change without prior notice.

MTC 016849

PEBS-7:2
EFFECTIVE: 2-1-81
CANCELS: PEBS-7:2, 9-1-80

# THERMAL ACOUSTICAL FIBER GLASS BATTS

Kraft-Faced Batts CC: 1740

| ITEM NO. | THERMAL VALUE | SIZE THICKNESS X WIDTH X LENGTH | PIECES PER BAG | SQ. FT. PER BAG | PRICE PER MSF |
|---|---|---|---|---|---|
| A-016 | R-19 | 6-1/2" x 24" x 47-1/2" | 24 | 190 | $338.50 |
| A-014 | R-11 | 4" x 24" x 47-1/2" | 40 | 316.6 | 202.00 |

Un-Faced Batts (Class 25) CC: 1740

| | | | | | |
|---|---|---|---|---|---|
| A-026 | R-19 | 6-1/2" x 24" x 47-1/2" | 24 | 190 | $318.50 |
| A-024 | R-11 | 4" x 24" x 47-1/2" | 40 | 316.6 | 185.50 |

# SOUND CONTROL FIBER GLASS BATTS

Un-Faced Batts
For Steel Stud Partitions

| ITEM NO. | SIZE THICKNESS X WIDTH X LENGTH | PIECES PER BAG | SQ. FT. PER BAG | PRICE PER MSF |
|---|---|---|---|---|
| | | CC: 2047 | | |
| A1622 | 2-3/4" x 16" x 96" | 32 | 341.3 | $157.00 |
| A2422 | 2-3/4" x 24" x 96" | 32 | 512.0 | 157.00 |
| | | CC: 2048 | | |
| A1624 | 4" x 16" x 96" | 20 | 213.3 | $185.50 |
| A2424 | 4" x 24" x 96" | 20 | 320.0 | 185.50 |

# NOTES

**ORDER PLACING & SHIPPING LOCATIONS:**
Cleburne, TX Phone (817) 645-9101
Corona, CA Phone (714) 737-3070
Defiance, OH Phone (419) 784-4011
McPherson, KS Phone (316) 241-6260
Winder, GA Phone (404) 867-4571

**UL LABELS:** Un-Faced Thermal-Acoustical and Sound-Control Fiber Glass Batts meet UL fire hazard classification 25/50. UL labels will be applied to all packages upon request to the producing locations.

**NON-STANDARD PRODUCTS:** All items not listed in this price page are non-standard.
All non-standard products are subject to minimum order quantity and set up charge.
Consult your J-M Representative for availability and price.
Johns-Manville reserves the right to over ship the quantity on any non-standard product by 5%.

**COMBINED SHIPMENTS:** Any PEBS product classified as a standard stock item may be combined in full C/L and T/L shipments with Thermal-Acoustical and Sound Control Fiber Glass Batts within the normal established service area of plants producing these products.

**TYPE OF SHIPMENT:** Refer to section VIII of the terms and conditions of sale.

**TRANSPORTATION CHARGES AND ALLOWANCES:** Refer to section IX of the terms and conditions of sale.

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Johns-Manville
Ken-Caryl Ranch
Denver, Colorado 80217

The physical and chemical properties of Johns-Manville Products represent typical average values obtained in accordance with accepted test methods and are subject to normal manufacturing variations. They are supplied as a technical service and are subject to change without notice. Check the Johns-Manville regional sales office to assure current information.