



EGIDE USA - TERMS AND CONDITIONS OF SALES

Prices

Prices and discounts are subject to change without notice. In the event of a price change, the effective date of the change will be the date shown on the new price or discount sheets. Unless otherwise specifically set forth, prices are f.o.b. point of shipment. Taxes and transportation charges invoiced are not subject to discount.

Price Policy

Unless otherwise specifically stated, Seller's prices do not include sales, use, excise or similar taxes. Consequently, in addition to the prices specified, the amount of any present or future sales, use, excise or other similar taxes applicable to the sale of the product hereunder shall be paid by the Buyer, or in lieu thereof, the Buyer shall provide the Seller with a tax exemption certificate acceptable to the taxing authorities. Quotations not accepted by the Buyer within 30 days are subject to revision.

Acceptance and Cancellation of Orders

No Contract between Seller and Buyer shall be deemed to exist until Seller accepts Buyer's order. Orders placed can be cancelled, and delivery schedules extended or changed, only with the Seller's written consent and upon terms which will equitably indemnify the Seller.

Terms of Payment

Terms of payment are to be as specified. Absent any express specification, standard terms of payment are 30 days net. If in Seller's reasonable opinion, the financial condition of Buyer at any time during the manufacturing period, or at the time materials are ready for shipment, or thereafter during any period of extended payment, does not justify the extension of credit or continuation thereof, to the Buyer as specified in the contract. Seller may require immediate payment, or full or partial payment in advance, as may be appropriate.

No deductions from the sale price shall be taken by buyer for returned goods, for debit memos issued by Buyer, or for any other reason, unless approval is given by Seller.

In the event of any delay through any circumstances whatsoever in the payment of invoices submitted in accordance with the terms hereof, Seller reserves the right to protect its interest in such goods in all ways available to it under the provisions of the Uniform Commercial Code or similar applicable acts, including but not limited to stoppage in transit, suspension of delivery of any further goods, and termination of any unexecuted contract with the Buyer, all without prejudice to any other remedy or remedies that may be available to Seller.

Transportation

Seller will arrange transportation as it deems appropriate, prepaid or collect as it shall determine. Transportation to points outside of the continental United States shall be subject to special agreements between Seller and Buyer. Routing of all shipments shall be a Seller's option.

Boxing and Cartage

No Charge is made for boxing or crating required by transportation company for domestic shipments. Cost of special boxing, export boxing, cartage to steamer or transfer expenses will be added to the invoice unless such charges are shown to be included in the prices quoted.

Title

Title to all materials ordered, and risk or loss thereon, shall pass to Buyer upon delivery of the materials to the carrier for shipment. Any claims for shortages or damages suffered in transit shall be submitted by the Buyer directly to the carrier.

Warranties

The materials ordered and agreed to be furnished by Seller are warranted against defect of material or workmanship for a period of one (1) year from the date of shipment, or for their related life (whichever period ends first). Seller's obligation under the warranty is limited to repair or replacement, in Seller's option, of the defective material at Seller's factory (point of shipment) and does not extend to equipment other than of Seller's manufacture. The warranty shall not apply to any product or part which has been subject to misuse, negligence, accident, or attempted or unauthorized repair or modification. All return shipments must be factory authorized prior to shipment, and shipment will be at Buyer's expense. The only statutory warranties applicable to the materials and warranties of title and that the materials will be merchantable and if manufactured to Buyer's specifications, that the said items conform to such specification. Unless expressly stated on the face hereof no warranty of fitness for any particular purpose is to be implied, nor are any other warranties to be implied from course of dealing or usage of trade. There are no warranties which extend beyond those stated herein. Seller's sole liability for defects or breach of warranty shall be replacement of the materials involved, and in no event will the seller be liable for special or consequential damages. Failure to test, inspect and make claims for breach of warranty within reasonable periods shall be evidence that the merchandise shipped is satisfactory in all respects and supplied in accordance with ordered specifications.

Limitations of Liability

(a) Seller will not under any circumstances, whether as a result of breach of contract, breach of warranty, tort or otherwise be liable for consequential, incidental, special, or exemplary damages including, but not limited to loss of profits or revenues, loss of use of or damage to any associated equipment, cost of capital, cost of substitute products facilities or services, downtime costs, or claims of Buyer's customers.

(b) Seller's liability on any kind for any loss or damage arising out of, resulting from, or concerning any aspect of this agreement or from the products or services furnished hereunder shall not exceed the price of the specific order or shipment which gives rise to the claim.

Delays

Shipping dates are approximate and are not guaranteed. Seller shall not be liable for any delays in fulfilling any order caused by conditions beyond Seller's control including, but not limited to acts of God, strikes, lockouts, boycotts or other labor troubles, war, riot insurrection, or other civil disorder, floods, government regulations, or delays of Seller's subcontractors or suppliers in furnishing materials, tools or supplies due to any one or more of the forgoing causes.

Patent Liability

Seller agrees to hold Buyer and its customer harmless only against infringement of patents covering the material or part in the form sold by Seller, provided Buyer or its customer promptly notifies Seller of any claim or litigation and tenders the defense thereof to Seller. Buyer agrees to hold Seller harmless from any liability of Seller for infringement of patents by reason of manufacture according to Buyer's design or by reason of incorporation of Seller's materials in a more comprehensive assembly than sold by Seller, provided Seller promptly notifies Buyer of any claim of litigation, and tenders the defense thereof to Buyer.

Seller grants no license, express or implied, other than the right to Buyer to use the specified material or part in the form delivered to Seller.

Changes

In the event of changes in specifications, prices will be increased or decreased to correspond to the amount of material, labor, engineering, overhead and other factors involved, with due consideration for work done prior to the change.

Rejections & Returned Materials

Claims for incorrect materials must be filed in writing within 30 days from delivery at Buyer's place of business. No materials may be returned without first obtaining written approval from Seller, and no claim will be allowed or credit given for materials returned without such written approval.

Tools

Buyer agrees to pay Seller's reasonable charges for special tools, molds, dies, gauges, etc., which will include only special tools necessary to supplement Seller's standard tool equipment. Payment of such charges does not convey ownership or the right to remove such tools, molds, dies, gauges, etc., from Seller's possession.

Contract

No verbal agreement or understanding in any way modifies the terms hereof and no charge in any of the terms and conditions set forth herein shall be binding unless consented to in writing by the Seller through its duly authorized representative. It is understood and agreed that time shall not be of the essence of this contract. Clerical errors may be corrected by notice in writing to all parties. These terms and conditions shall take precedence over the terms or conditions which may appear in Buyer's order or other communication from Buyer relating thereto, and Seller shall not be bound by Buyer's terms and conditions unless expressly agreed to in writing. Failure of Seller to object to any such provisions contained in any purchase order or other communication from Buyer shall not be construed as a waiver of these terms and conditions nor as an acceptance of any such provisions by Seller.

Design, Dimensions, and Weights

Seller reserves the right to change designs without notice to Buyer, unless otherwise agreed upon. Weights and dimensions published are approximate and sufficiently accurate for most uses. If the approximate weights and dimensions are insufficient to Buyer's purposes, Buyer should obtain certified prints where exact weights and dimensions are critical.

Approval of Drawings

Any drawing submitted by Seller to Buyer for Buyer's approval of design, etc., shall remain the property of Seller, and Buyer will not copy such drawings or use such drawings for any purpose other than confirming the design of materials to be supplied by Seller. On Demand, Buyer will deliver to Seller all such drawings, and all copies thereof made by Buyer or others. Delivery of materials conforming to approved drawings will be deemed full satisfaction of Seller's warranty to conform to specification.

Assignments

Neither party may assign this contract without the written consent of the other, except that this contract will automatically be assigned to any successor to Seller by reason of merger, consolidation, or sale of substantially all of its assets.

Compliance With Applicable Laws

Seller represents that the materials to be furnished hereunder were or will be produced or performed in compliance with all applicable requirements of Section 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and of all valid and applicable regulations and orders of the administrator of the Wage and Hour Division issued under Section 14 thereof.

Export Clause

Purchaser shall be responsible for complying with all US export regulations including, but not limited to, the Export Administration Regulations and the Foreign Assets Control Regulations.