

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

FURNISH COMPLETE – Equitable Engineering Company (hereinafter referred to as Seller) will furnish parts, gears, machinery or apparatus complete, including material, with all the machining, cutting, heat treat, and/or assembly operations being performed in accordance with specifications stated herein or on drawings.

MACHINING AND CUTTING ONLY, OR CUTTING ONLY, OR HEAT TREAT ONLY – Purchaser furnished to Seller material and/or machined blanks ready for the operations specified herein only.

2. ACCEPTANCE, GOVERNING PROVISIONS, AND CANCELLATION

No order for products or services of Seller shall be binding upon the Seller unless accepted in writing by an authorized official at its Home Office. Any such order shall be subjected to these terms and conditions of sale and acceptance of an order by the Seller shall be expressly conditioned on assent to such terms and conditions, which assent shall be deemed given unless purchaser shall expressly notify Seller to the contrary within 10 days after receipt of acknowledgment or confirmation of an order and in all events prior to the commencement of any delivery or performance of such order. No modified or other conditions will be recognized by Seller unless specially agreed to in writing and failure of Seller to object to provisions contained in any purchase order or other communications from a purchaser shall not be construed as a waiver of these conditions nor an acceptance of any such provisions. Any contract for sale and these conditions and terms shall be governed by and construed according to the laws of the state of MICHIGAN. No order accepted by Seller may be altered or modified by the purchase unless agreed to in writing by Seller; and no such order may be cancelled or terminated except upon payment of Seller's loss, damage and expense arising from such cancellation or termination.

3. DELIVERY

Delivery shall be F.O.B Seller's plant. Delivery of products to a carrier at Seller's plant or other shipping point shall constitute delivery to purchaser and title shall pass at that time; regardless of freight payment all risks of loss or damage in transit shall be borne by purchaser. Delivery promises are based on Seller's best judgment and Seller will attempt to fill orders at the agreed time. However, Seller shall not be liable for any damage claimed to result from any delay in delivery due to any cause whatsoever.

4. TERMS OF PAYMENT

All invoices are due and payable in net cash thirty (30) days from date of invoice or subject to management discretion. Positively no discount. Delays in transportation shall not extend terms of payment.

Should the purchaser's financial responsibility become unsatisfactory to the Seller, cash payment or satisfactory security, may be demanded by the Seller and in default of such cash payment or satisfactory security, deliveries herein may be discontinued at the option of the Seller and a charge rendered covering the value of any partially finish articles that are being manufactured on this order or contract.

5. WARRANTY

Seller warrants its products to be free from defects in materials and workmanship for a period of fourteen (14) days from date of shipment by Seller. If within such period any such products shall be proved to Seller's satisfaction to be so defective, such products shall be repaired or replaced at Seller's option. Seller's obligation upon such warranty shall be limited to such repair and replacement and shall be conditioned upon Seller's receiving written notice or any alleged defect within 10 days after its discovery and, at Seller's option, return of such products or parts to Seller, F.O.B its factory, or inspection by Seller at the location of the production or part. This warranty shall not apply to products or parts not manufactured by Seller or to products or parts which shall have been repaired or altered by other than Seller so as, in its judgment, adversely to affect the same, or which shall have been subject to negligence, accident, damage by circumstances beyond Seller's control, or improper operations, maintenance or storage, or to other normal use or service. With respect to products and parts not manufactured by Seller, the warranty obligations of Seller shall in all respects conform and be limited to the warranty actually extended to Seller by the supplier. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANT ABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Seller shall not be subject to any other obligation or liabilities whatsoever with respect to products or any other obligations or liabilities whatsoever with respect to products or any undertakings, acts or omission relating thereto.

The standards of AGMA will be followed in the manufacture of all parts ordered with regard to specifications not expressly provided herein in writing.

We guarantee that all goods and every part and ingredient thereof sold to you are produced in accordance with the Fair Labor Standards Act of 1938 and all amendments thereto.

7. CLAIMS

Expenses incurred in connection with claims for which the Seller is not liable may be charged to the purchaser. No claim for correction will be allowed except for work done with the written consent of the Seller. Defects that do not impair service shall not be a cause for rejection.

The Seller shall not be liable under any circumstances, and anything to the contrary herein contained notwithstanding, for any direct, indirect, consequential, contingent or incidental damages whatsoever arising from or resulting from the failure or improper functioning of any of its products.

Claims for shortages or other errors must be made in writing to Seller within 14 days after receipt of shipment and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by purchaser.

The buyer will defend, at his own expense, and hold seller harmless against, any suit which may be brought against Seller by reason of the manufacture or sale of parts made to the buyer's specifications.

No claim will be allowed for material mutilated by the purchaser or damaged in transit.

Where the purchaser furnishes the material, and it proves defective or involves expense not contemplated by the contract, the "Seller will invoice all expenses involved.

When work of any kind is performed by Seller on material supplied by the purchaser, Seller shall not be liable for any cost of the material or other damages in event of spoilage or rejection for whatsoever cause or reason.

The Seller shall not be liable for loss of patterns, tooling, or merchandise because of reasons of circumstances beyond Seller's control.

8. ALTERATIONS

No alterations in specifications, either for total quantity, delivery, mechanical chemical or other details may be made without written consent of an authorized official of Seller and readjustment of price. Instructions from the purchaser to suspend work or cancel shall entitle the Seller to an adjustment charge.

9. PRICING POLICY

Prices quoted are for acceptance within 30 days. Prices are based on running the full quantity for shipment at one time and to one destination unless otherwise agreed to in writing.

10. ERRORS AND VARIANCES

All clerical errors in Seller's quotations, acknowledgments, and invoices are subject to correction.

11. OVERRUNS – UNDERRUNS

All quotations are based on customer accepting overruns or underruns, not exceeding 10% of quantity ordered, to be paid for or allowed pro rata.

12. PACKING

All prices listed provide for packing in accordance with the Company standard specifications.

13. DEVELOPMENT, DRAWING, PATTERN AND/OR TOOL CHARGES

Development, drawing, pattern and/or tool charges quoted in a proposal represent the purchaser's proportionate cost thereof and it is expressly understood that such drawings, patterns, and/or tools remain the property of the Seller, unless otherwise agreed in writing.

14. PATENTS, ETC.

Seller will have no responsibility whatsoever with respect to patent infringement if the infringing products shall have been made to the specifications of the purchaser or a third party or if such alleged infringement shall consist of the use of Seller's products for purposes other than those for which the same shall have been sold by Seller and purchaser shall indemnify Seller against all claims arising out of alleged infringement of patents, designs, copy rights or trademarks with respect to any goods manufactured to purchaser's specifications