

ENIDINE INCORPORATED
INVOICE STANDARD TERMS AND CONDITIONS

1. PRICES - Although Enidine Incorporated ("Seller") will endeavor to advise the customer identified on the front side of this Contract ("Buyer") of fluctuations in price, all prices identified herein are subject to adjustment to reflect prices in effect at time of shipment.
2. CONDITIONAL ACCEPTANCE - ACCEPTANCE BY SELLER IS EXPRESSLY MADE CONDITIONAL ON ASSENT BY BUYER TO EACH TERM AND/OR CONDITION SET FORTH HEREIN INCLUDING, BUT NOT LIMITED TO, ANY TERMS AND CONDITIONS WHICH ARE ADDITIONAL TO OR DIFFERENT FROM THOSE CONTAINED IN BUYER'S OFFER TO PURCHASE THE GOODS. IF THESE TERMS AND CONDITIONS ARE NOT ACCEPTABLE, BUYER MUST NOTIFY SELLER AT ONCE ACCEPTANCE OF ANY PRODUCTS SOLD HEREUNDER (INDIVIDUALLY, A "PRODUCT", AND COLLECTIVELY, THE "PRODUCTS") OR FAILURE BY BUYER TO OBJECT IN WRITING TO SUCH TERMS AND/OR CONDITIONS WITHIN FIVE (5) DAYS FROM RECEIPT OF THIS CONDITIONAL ACCEPTANCE SHALL CONCLUSIVELY CONSTITUTE BUYER'S ASSENT TO THESE TERMS AND CONDITIONS. TYPOGRAPHICAL AND/OR CLERICAL ERRORS BY SELLER IN QUOTATIONS, ORDERS AND/OR ACKNOWLEDGEMENTS ARE SUBJECT TO CORRECTION BY SELLER
3. RISK OF LOSS - Title to all products sold hereunder (individually, a "Product" and collectively, the "Products"), and risk of their damage or loss in transit, shall pass to Buyer on delivery to the initial carrier. In the event of damage or loss in transit Buyer shall give immediate written notice to Seller and to the carrier's agent at destination. Within thirty (30) days after receipt of any Product(s), Buyer shall notify Seller of any claims for shortage, errors in shipment or errors in charges with respect to such Product(s).
4. DELAY IN PAYMENT - If Buyer shall fail to fulfill the payment terms of any order between Buyer and Seller, whether pursuant to this Contract or otherwise, Seller shall have the right to (i) defer any further shipments to Buyer until such payments are made, (ii) cancel any of Buyer's outstanding order(s), (iii) charge interest on overdue payments at a rate equal to the lower of one and one-half percent (1½) per month or the highest rate allowed by law, and/or (iv) render additional invoices covering any outstanding payments, accrued interest thereon and any other amounts payable pursuant to any such order. Buyer agrees to pay all costs and expenses incurred by Seller in the collection of amounts past due hereunder, regardless of whether legal proceedings have been instituted in connection therewith, including, without limitation, reasonable attorneys' fees and expenses.
5. TAXES - Buyer shall pay any present or future sales, use, excise or other taxes, whether Federal, state, local or other, arising at any time as a result of the sale of, or otherwise with respect to, the Products, and, if any such taxes shall not be paid directly to Seller in connection with the order hereunder (without, however, limiting Seller's right to require such payment), Buyer shall indemnify Seller on demand for any expenses, costs, interest, penalties or other liabilities incurred by Seller in connection with any such taxes.
6. TOOLS, DIES, ETC. - Any special tools, dies, jigs, etc. acquired for purposes of filling any order of Buyer, notwithstanding any charge to Buyer therefor shall be and remain the property of seller or its supplier and shall at all times remain in the possession and control of Seller or its supplier. If Buyer does not reorder material to be produced from such equipment, Seller or its supplier may, after written notice to Buyer, and unless other arrangements are agreed upon in writing, dispose of such equipment without accounting therefor or incurring any liability to Buyer.
7. SHIPPING OF ORDERS - Seller shall use its best efforts to ship ordered Products to Seller on or before the shipping date, if any, set forth in the Order. Notwithstanding the foregoing however, Seller shall not be liable for any delay in shipment or delivery of any order. In the event of any delay in shipment or delivery requested by Buyer or any delay caused by Buyer's failure to provide shipping instructions, Seller will store all items ordered at Buyer's risk and expense, and may, at Seller's option, invoice Buyer for the full contract price of the Products at any time on or after the date on which such Products are ready for delivery
8. PRODUCTION STANDARDS - Except as to any particulars specified by the Buyer and expressly in writing by Seller, all Products shall be produced in accordance with Seller's standard practices.
9. CANCELLATIONS - Cancellation by Buyer of an order for any Product(s) shall be permitted only if (a) Seller shall consent in writing thereto, and (b) Buyer shall thereupon reimburse Seller for all expenses incurred by Seller for labor, materials produced, processed or partly processed, materials specially purchased pursuant to Buyer's specifications, and for overhead expenses allocable to Seller's fabrication or furnishing of such Products.
10. WARRANTIES - All Products are warranted to be free from defects in material and workmanship under normal use and service for a period of one (1) year from the date of receipt by Buyer. Seller's sole obligation under this warranty shall be to repair, or at its option, to replace any defective part or Product without cost to Buyer. Any repairs performed pursuant to such warranty shall not on any way extend the statute of limitations contained in this Section 10. THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES EXPRESS OR IMPLIED (INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE). BUYER MAY NOT BRING ANY ACTION UNDER OR ARISING FROM THIS CONTRACT UNLESS SUCH ACTION IS COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.
11. PURCHASE MONEY SECURITY INTEREST - Buyer hereby grants to Seller a purchase money security interest in the Products (and all proceeds thereof) covered by this Contract to secure payment of the purchase price of such products and any other amounts owing or to become owing to Seller hereunder. Seller shall have all rights and remedies of a secured party under applicable law. Seller is authorized, in its discretion, to file one or more financing statements naming Buyer as debtor and Seller as secured party, and Buyer hereby appoints Seller its attorney-in-fact to execute any such financing statements on behalf of Buyer
12. BUYER'S REMEDIES - If, but only if, (a) written notice shall be given to Seller not later than thirty (30) days after delivery to Buyer of any Product, and (b) Seller shall be given a reasonable opportunity to verify, while such Product is in the hands of the original purchaser, that such Product has been used solely for the purpose for which it was sold, Seller will, at its sole option (i) replace such Product if Seller determines that it fails to conform to the specifications of this Contract, or (ii) repay, upon return of any non-conforming Product, the price paid for such Product plus any transportation charges paid by Buyer to and from Seller's plant. Buyer's remedies with respect to any Product found not to be in conformity to the specifications of this Contract because of breach of express warranty (as defined in the preceding paragraph), negligence or otherwise, shall be limited exclusively to the right of replacement thereof or repayment of the purchase price, as provided in this Section 12. Any request for a Product to be returned to Seller for evaluation pursuant to this Section 12 must have a Return Goods Authorization (RGA) Number assigned by Seller's sales department personnel prior to receipt by Seller. The RGA Number must be clearly indicated on the exterior of the package containing the Product being returned. Seller may reroute to the point of origin at Buyer's expense any Product which (i) has not been assigned a RGA Number or (ii) is returned in a package on which the RGA Number is not clearly indicated as required by this Section 12. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, ANY LOST PROFITS OR ANY DAMAGES ARISING FROM ANY LOSS RESULTING FROM THE USE OF ANY PRODUCT(S) PROVIDED BY SELLER, EVEN IF SELLER HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH LOSS OR DAMAGES AND REGARDLESS OF THE FORM OF ACTION. SELLER'S LIABILITY TO BUYER FOR DAMAGES OF ANY NATURE SHALL IN NO EVENT EXCEED THE TOTAL PRICE RECEIVED BY SELLER HEREUNDER.
13. PROPERTY OF BUYER - Any property of Buyer retained in Seller's plant is for Buyer's account and risk.
14. COMPLIANCE WITH LAWS - Seller represents that the products covered by this Contract will be produced in compliance with all applicable requirements of Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations, and orders of the United States Department of Labor issued under Section 14 thereof, and with all non-discrimination provisions of Section 301 of Executive Order 10925 issued by the President of the United States and effective April 1, 1961, the provisions of which are incorporated herein by reference. Seller is an Equal Opportunity Employer.
15. GOVERNING LAW - This Contract shall be governed construed and enforced in accordance with the laws of the State of New York, without regard to principles of conflicts of law.
16. NO WAIVER - The failure of Seller or Buyer to insist, in anyone or more instances, upon the performance of any term, covenant or condition of this Contract or to exercise any right hereunder shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition or the future exercise of such right, nor shall it be deemed to be a waiver or relinquishment of any other term, covenant or condition or the exercise of any other right under this Contract.
17. MODIFICATION OF CONTRACT - No terms or conditions other than those stated herein, and no agreement or understanding, oral or written, in any way purporting to modify these terms and conditions, whether contained in Buyer's purchase order or shipping forms, or elsewhere shall be binding upon Seller unless made in writing and signed by its authorized representative.