

ERICO International Corporation
Terms and Conditions of Sale

1. **AGREEMENT.** These terms and conditions and the provisions on the other side hereof, if any, constitute the entire agreement between ERICO International Corporation ("ERICO") and the buyer of ERICO products ("Buyer"). They replace all other statements, representations and agreements, oral or written, made by the parties or their representatives including, without limitation, conflicting or different provisions of Buyer's purchase order. No modification or addition to this agreement shall be binding upon ERICO unless specifically set forth in a writing signed by ERICO.
2. **QUOTATIONS.** Written quotations by ERICO automatically expire 30 days from date of quotation and are subject to termination by notice from ERICO within that period. ERICO shall have no liability in respect of any oral quotation or under any oral agreement unless such quotation or agreement is confirmed in writing by ERICO within 10 days thereafter. Buyer's purchase order shall upon receipt by ERICO at its home office in Solon, Ohio be deemed an acceptance of ERICO's quotation or an offer to purchase ERICO's products, but shall be subject to these terms and conditions. Additional or different terms in Buyer's order or other communication shall not be binding upon ERICO unless agreed to by ERICO and Buyer in writing.
3. **PRICES; ERRORS.** Unless otherwise specifically agreed to in writing by ERICO, all prices, whether in ERICO's price list, quotation, order acknowledgment or elsewhere, are in U.S. Dollars and are subject to change without notice at any time prior to shipment of the products. Price increases will not, however, be applied to products covered by an order acknowledgment stipulating a shipment date within 15 days after the effective date of the increase. Prices shown on ERICO's price list or elsewhere are for information only and do not constitute quotations or offers to sell. All orders, regardless of prices quoted, and whether placed as "blanket", "approximate" or in specific quantities, will be priced based on the quantity actually released in each shipment. ERICO reserves the right to correct errors in specifications or prices due to typographical, clerical or engineering errors or because of incomplete or inaccurate information from Buyer. Minimum order of \$100 net required. Payment is due 30 days from date of invoice, unless otherwise agreed to in writing.
4. **WARRANTY; CLAIMS; EXCLUSIVE REMEDY.** ERICO products are warranted to be free from defects in material and workmanship at the time of shipment. NO OTHER WARRANTY, WHETHER EXPRESSED OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), SHALL EXIST IN CONNECTION WITH THE SALE OR USE OF ANY ERICO PRODUCTS. Claims for errors, shortages, defects or nonconformities ascertainable upon inspection must be made in writing within 5 days after Buyer's receipt of products. All other claims must be made in writing to ERICO within 6 months from the date of shipment or transport. Products claimed to be nonconforming or defective must, upon ERICO's prior written approval in accordance with Clause 8 below, promptly be returned to ERICO for inspection. Claims not made as provided above and within the applicable time period will be barred. ERICO shall in no event be responsible if the products have not been stored or used in accordance with its specifications and recommended procedures. ERICO will, at its option, either repair or replace nonconforming or defective products for which it is responsible or return the purchase price to Buyer. THE FOREGOING STATES BUYER'S EXCLUSIVE REMEDY FOR ANY BREACH OF ERICO WARRANTY AND FOR ANY CLAIM, WHETHER SOUNDING IN CONTRACT, TORT OR NEGLIGENCE, FOR LOSS OR INJURY CAUSED BY THE SALE OR USE OF ANY PRODUCT.
5. **LIMITATION OF LIABILITY.** ERICO excludes all liability except such liability that is directly attributable to the willful or gross negligence of ERICO's employees. Should ERICO be held liable its liability shall in no event exceed the total purchase price under the contract. ERICO SHALL IN NO EVENT BE RESPONSIBLE FOR ANY LOSS OF BUSINESS OR PROFITS, DOWNTIME OR DELAY, LABOR, REPAIR OR MATERIAL COSTS OR ANY SIMILAR OR DISSIMILAR CONSEQUENTIAL LOSS OR DAMAGE INCURRED BY BUYER.
6. **CANCELLATION; DELIVERY; DEFERRED DELIVERY.** Orders may be cancelled only upon written notice from Buyer received by ERICO at least 30 days prior to shipping date and upon immediate payment by Buyer for all completed products at the unit price; for products in process based on the percentage of completion thereof times the unit price; and for raw material, unamortized tooling, engineering and other cancellation charges based on the cost to ERICO plus handling and overhead charges. Orders for less than standard box or package quantities may be increased to standard quantities at ERICO's discretion without further notification. At ERICO's discretion, ERICO may split the order stipulated in Buyer's purchase order in separate orders, which shall then constitute separate agreements. Buyer may defer deliveries only upon Buyer's written request received by ERICO at least 10 days prior to the originally scheduled shipping date and Buyer's payment in full of the price of the products on or before that date, plus payment of storage charges thereafter. In no event may Buyer defer delivery for more than 60 days without the express written agreement of ERICO.
7. **SHIPPING, LOSS AND DAMAGE.** Freight terms for all shipments are FOB point of origin from ERICO's North American facilities unless otherwise agreed to in writing in advance of shipment date. Buyer acknowledges that delivery dates provided by ERICO are estimates only and that ERICO is not liable for failure to deliver on such dates. ERICO reserves the right to make deliveries in installments. In case deliveries are made in installments, ERICO's payment conditions apply to each part delivered separately. Delay in delivery of one installment shall not entitle Buyer to cancel other installments. Risk of loss or damage to products shall pass to Buyer upon delivery to the first carrier of Buyer's representative or to a carrier of ERICO's choice. Apparent shortage, visual damage to shipping containers or possible concealed damage conditions must be noted on both consignee's and carrier's delivery receipt of record. ERICO shall not be responsible for any such conditions unless it and the carrier's local office are notified of such conditions within 5 days after the date of delivery.
8. **RETURNS.** Returns will require the prior written approval of ERICO. ERICO will, upon request, furnish Buyer the terms and procedures governing returns. Except for in-warranty returns, returns for less than standard box or package quantities or with a total value of less than \$500 will not be accepted. Buyer will be responsible for a minimum restocking charge of 25% of the list price of the returned goods.
9. **TELEPHONED OR FAXED INSTRUCTIONS.** ERICO accepts no responsibility and Buyer will not hold ERICO responsible for errors or misunderstandings, whether or not due to ERICO's negligence, in complying with orders or instructions given to ERICO by telephone or fax. The foregoing also applies to orders or instructions given to a third party for transmittal to ERICO.
10. **DIES, TOOLS, ETC.** In the event Buyer is separately charged for dies, tools or gages, Buyer shall not obtain any ownership interest therein or the right to remove them from ERICO's plant unless specifically agreed otherwise in writing.
11. **TOLERANCES.** Unless otherwise agreed in writing, all product dimensions are approximate. Consequently, Buyer shall take into account reasonable product tolerances and the standards customarily employed by ERICO.
12. **SPECIAL OR MODIFIED PRODUCTS.** Products not catalogued or products catalogued but requiring deviation from standard are subject to applicable pattern, tooling and test charges.
13. **MODIFIED OR DISCONTINUED PRODUCTS.** ERICO shall have no duty to stock or provide spare or replacement parts or products. ERICO may modify or discontinue any product or line of products at any time without liability except to refund any amounts already paid for any such products that have been ordered but not yet delivered.
14. **EQUAL EMPLOYMENT OPPORTUNITY.** The Equal Employment Opportunity Clause in Section 202 of Executive Order No. 11246, as amended, relating to equal employment opportunity and the implementing rules and regulations of the Office of Federal Contract Compliance are incorporated herein by specific reference.
15. **TAXES.** All duties, sales, use, excise or similar taxes or charges applicable to the sale or use of any products or the furnishing of any service shall be Buyer's responsibility, and Buyer shall indemnify ERICO against any liability thereunder.
16. **FORCE MAJEURE.** If ERICO is prevented from performing its obligations by force majeure, ERICO will have the right to suspend the performance of the agreement or to consider the agreement terminated in whole or in part, at ERICO's option, without judicial intervention and without ERICO being liable for any claims for damages or guarantees. Force majeure includes any circumstance, foreseen as well as unforeseen, as a result of which observance of the contract can no longer reasonably be expected by Buyer, including but not limited to war, sabotage, rebellion, revolt, transportation disturbances, strikes, accidents, fire, explosion, technical failures and delayed delivery by suppliers.
17. **ASSIGNMENT.** The rights and obligations of Buyer by virtue of these terms and conditions cannot be assigned by Buyer otherwise than to the successors and assignees of the entire business of Buyer. Upon written communication to Buyer, ERICO shall have the right to assign and transfer all its obligations and rights under the agreement with Buyer to a third party.
18. **SEVERABILITY.** If part of this agreement is or becomes invalid or non-binding, ERICO and Buyer shall remain bound to the remaining part. The invalid or non-binding part shall be replaced by provisions that are valid and binding and give effect to the contents and purpose of this agreement to the greatest extent possible.
19. **GENERAL.** This agreement shall be governed by the laws of the State of Ohio without reference to its conflict of laws principles. Captions have been inserted solely for convenient reference and shall not limit or affect any provision hereof. No waiver by ERICO of any right or remedy on any prior occasion shall constitute ERICO's waiver of any such right or remedy on subsequent similar occasions.