



SEMPERIT INDUSTRIAL PRODUCTS, INC. SALES OFFICE

CONDITIONS OF SALE

1. **GENERAL.** These Conditions of Sale ("Conditions") apply to the sale of goods by Semperit Industrial Products, Inc., ("Seller"). Any other agreement, contract, modification or waiver will not bind the Seller of these Conditions unless expressly approved in writing by an authorized employee or agent of Seller.
2. **DELIVERY.** Unless otherwise agreed in writing, delivery is FOB Seller's port of shipping. The responsibility for payment of freight, insurance, duty and other costs shall be determined by the agreed terms of the particular sale. Seller has choice of routing and may deliver goods in more than one lot. In the event that goods are shipped in more than one lot, each lot shall be deemed a separate contract and paid for separately. Any delivery made within sixty (60) days of the agreed date shall constitute timely delivery and delivery of goods any time thereafter shall be timely delivered unless Seller receives written notice of cancellation by certified or registered mail five days prior to shipment. Seller shall be permitted quantity variations of ten percent (10%) more or less than specified, with the price being adjusted accordingly.
3. **FREIGHT POLICY.** Seller prepays shipments on consolidated and full containerloads (20 ft. and 40 ft.) to any one (1) continental USA location. Airfreight shipments are FOB Seller's airport.
4. **MINIMUM ORDER VALUE.** As part of Seller's written quote, pricebook or catalogue, container orders must be 35,000 lbs. net or US \$ 30,000 net.
5. **PRICES.** All prices shown on Seller's catalogues or other price lists are subject to change without notice. If Seller's costs are increased between the date Purchaser's order is accepted and the date of delivery by increases in transportation costs, port dues, wharfage, tolls, loading charges, insurance rates, import or export taxes, customs duties, customs appraisals, currency conversation rates, or governmental action of any kind, Seller may increase the price accordingly by notifying Purchaser.
6. **PAYMENT TERMS.** Seller's payment terms are 30 days net unless otherwise agreed upon.
7. **TAXES.** Seller's prices do not include any applicable Federal, State or local property, license, privilege, sales, use, excise, gross receipts or other like taxes which may be now or hereafter applicable to, measured by, or imposed upon or with respect to this transaction, the goods, their sale, value or use, or any services performed in connection therewith, which taxes will be paid by Purchaser.
8. **SETOFFS.** Neither Purchaser nor any affiliated company or assignee shall have the right to set off against any amounts which may become payable to the Seller under this contract or otherwise, for amounts which the Seller may allegedly or in fact owe the Purchaser or any affiliated company or assignee, whether arising out of this contract or otherwise.
9. **FORCE MAJEURE.** Seller shall not be liable for loss, damage, detention or delay due to war, riots, civil insurrection or acts of the common enemy, fire, flood, strikes or labor difficulties, acts of civil or military authority including governmental laws, orders, priorities, or regulations, acts of the purchaser, embargo, car shortage, wrecks or delay in transportation, inability to obtain necessary labor, materials or manufacturing facilities, or other causes beyond the reasonable control of the Seller. In the event such delays exceed ninety (90) days, Purchaser shall have the option to cancel its order upon written notice to the Seller
10. **ORDER CANCELLATIONS.** Purchaser may not cancel or modify any order except upon payment to the Seller of such damages, handling charges or other cancellation charges as may be mutually agreed in advance between the parties in writing.
11. **WARRANTIES.** Seller warrants that the goods conform to the written description, if any given to Purchaser by Seller, and that the goods are free from defects in workmanship and material at time of shipment by Seller. Seller warrants no length or measure of service unless expressly agreed in writing by Seller. This Warranty shall not apply to goods that have been destroyed, lost, disposed of or are otherwise unavailable for inspection by Seller.
THE SELLER MAKES NO OTHER WARRANTY OR REPRESENTATION AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATIVE OF SELLER HAS AUTHORITY TO MAKE ANY REPRESENTATIONS OR PROMISES BEYOND THOSE STATED HEREIN.
12. **LIMITATION OF LIABILITY.** In the event it is finally determined that Seller has breached its warranty, Purchaser's sole and exclusive remedy is to require Seller to replace such goods without charge or refund that portion of the price allocable to such goods, whichever Seller elects at its option. In no event will Seller be liable to the Purchaser or to any third party or any other person for any consequential, incidental, indirect, special or punitive damages arising from any cause whatsoever, whether or not such loss or damage is based on contract, warranty, negligence, indemnity, strict liability or otherwise. Under no circumstances will the aggregate liability of Seller to Purchaser and/or other persons exceed the sales price of the goods in question.
13. **RETURN OF GOODS.** Purchaser may return goods only upon approval by the Seller, evidence by valid returned goods authorization (RGA) number issued to Purchaser by Seller. If approved, conforming goods shall be subject to a handling charge equal to 15% of the purchase price. Purchaser shall bear the cost of return freight and risk of loss of the goods. In the event that the returned goods are found by Seller to be nonconforming and a credit, adjustment or replacement is allowed, Seller shall refund Purchaser's cost of return transportation.
14. **CHARGE ON OVERDUE ACCOUNTS.** A charge of 1 1/2% per month or the highest rate permitted by law shall be payable on all overdue accounts.
15. **ASSIGNMENT.** Purchaser may not assign this contract without the prior written consent of Seller.
16. **SEVERABILITY.** In the event that a court of competent jurisdiction holds any provision of this contract invalid, the remaining terms shall remain in full force and effect.
17. **CLAIMS AND LIMITATIONS ON ACTIONS.** Claims of nonconformity or of defect must be made by certified mail, return receipt requested, within sixty (60) days of Purchaser's receipt of the goods and any such claims not timely made in this manner shall be considered waived by Purchaser. Any lawsuit or other action brought by Purchaser to enforce any claim or alleged claim against the Seller with respect to goods sold by Seller to Purchaser must be commenced within one (1) year after the alleged cause of action against Seller has accrued, notwithstanding a longer applicable statute of limitations.
18. **DAMAGE AND SHORTAGE CLAIMS.** All claims for concealed loss or damage should be reported immediately to our Customer Service Department. Consignee must file all claims for damage and shortage via common carrier direct with carrier. Claims must be filed within 15 days or receipt of shipment.
19. **GOVERNING LAW.** These conditions shall be construed in accordance with the laws of the State of New Jersey, and the laws of the State of New Jersey will govern the respective right and obligations of the Purchaser and Seller.