

AG DAVIS GAGE & ENGINEERING CO TERMS AND CONDITIONS OF SALE

1. Express Warranties. AG Davis warrants to customer (buyer) that the equipment and related services covered by this quotation will be free from defects in material and workmanship for 1 year from the date of shipment of the equipment to customer location request or other vender of customer, or for such time period as provided elsewhere in a written quotation. AG Davis warrants to customer that the equipment will be basically as described in the quotation; however, AG Davis retains the right in its discretion to modify the composition, design, performance, color, and appearance of the equipment if, in its judgment, the modification is nonmaterial. AG Davis warrants that the equipment will comply in all material matters, within the limitations stated herein, to any plans and specifications furnished by customer and accepted by AG Davis in writing. The express warranties shall apply only if the equipment: are installed, tested, used, and maintained in conformity with normal industry practices and instructions furnished by AG Davis, if any; are used for the purpose for which equipment were designed; have not been subjected to misuse, negligence, or accident; and have not been altered or repaired by persons other than AG Davis in any respect which, in the judgment of AG Davis, adversely affects their condition or operation. There are no third party beneficiaries to the express warranties and they are non-assignable. Any defect or nonconformity caused in whole or in part by the negligence of, or materials or information provided by, the customer or its agents or contractors, is excluded from the express warranties. The express warranties apply only to equipment located in the United States or Canada unless this limitation is specifically modified in the quotation. This warranty excludes wear items, part touching details, and standard purchased parts (motors, switches, pilot lights, etc.) and is void if damage is caused by improper maintenance or incorrect use of the equipment.

2. Disclaimer of Express Warranties. There are no express warranties other than those in the quotation, and any discussions as to performance and other matters not set forth in the quotation or otherwise were for illustrative purposes only and do not constitute a warranty or representation.

3. Limitation of AG Davis' Liability. AG Davis will repair or replace, at its option, warranted equipment which are returned to AG Davis, freight prepaid, during the warranty period and which AG Davis determines are other than as warranted. As to warranted equipment which cannot be physically returned (e.g., services, permanent fixtures), AG Davis must receive a written notice of any claimed defect or nonconformity within the warranty period including the model number and serial number. The customer has the obligation to inspect the equipment promptly on receipt. Repaired or replacement equipment will be delivered to customer freight prepaid. Instead of repairing or replacing equipment, AG Davis may elect to cancel the sale and refund some if not all payments made thereon in full satisfaction of any claim of the customer or third party. Remedies for defective or nonconforming equipment are limited to their repair or replacement as described, whether or not they must be enforced by suit. The replacement or repair of equipment by AG Davis does not give rise to any new warranty except the warranty period provided for herein shall not include any period in which the defective or non-conforming Goods are in possession of AG Davis.

4. Disclaimer of Implied Warranties. AG DAVIS DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY THAT THE EQUIPMENT ARE FIT FOR ANY PARTICULAR PURPOSE. There are no warranties which extend beyond those express warranties contained herein.

5. Safety and Environmental Matters. AG Davis does not warrant the equipment will meet or comply with the requirements of any safety code or regulation of any state,

municipality, or other jurisdiction unless otherwise set forth in the quotation. AG Davis disclaims any responsibility for the appropriateness and safety of any additions or modifications to the equipment, or to any system in which the equipment is used, unless a specific charge is set forth herein for "system safety engineering." This disclaimer is effective whether or not AG Davis has knowledge regarding the intended additions or modifications. AG Davis disclaims any responsibility for the appropriateness and safety of the environment in which the Equipment are to be used, unless a specific charge is set forth herein for "environmental safety engineering." The disclaimers in this section are effective whether or not the customer specifically accepts responsibility for safety and environmental matters.

6. CONSEQUENTIAL AND INCIDENTAL DAMAGES. IN THE EVENT OF A BREACH, REPUDIATION, OR DELAY IN PERFORMANCE FOR ANY REASON BY AG DAVIS, AG DAVIS SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES (EXCEPT AS TO SUCH RIGHTS OF THIRD PARTIES THAT CANNOT BE WAIVED AND THEY SHALL BE SUBJECT TO AG DAVIS' RIGHT TO INDEMNIFICATION) NOR FOR ANY INCIDENTAL, EXEMPLARY, OR SIMILAR DAMAGES. THIS LIMITATION IS EFFECTIVE WHETHER OR NOT BUYER MUST ENFORCE ITS REMEDIES BY SUIT.

7. Requirement of Cover and Suit. In the event of a breach or repudiation by AG Davis, customer will not be entitled to damages unless it effectuates reasonable cover whether by purchase from AG Davis under written protest or from a third party. Any action to enforce any obligation of AG Davis relating to the equipment must be brought within one year from the earliest of the date of delivery and accrual of the action. This quotation and any resulting sale are governed by the laws of the State of Michigan and the parties consent to the convenience and jurisdiction of the courts of Michigan to decide issues arising hereunder.

8. Indemnification. Customer shall defend and indemnify AG Davis from any claims and expenses (including reasonable attorney fees), or portion thereof, arising out of buyer's conduct or that of its transferees in relation to the equipment.

9. Cancellation. A purchase order placed on the basis of the quotation may be cancelled by the customer up to 30 days prior to the estimated shipping date, providing that the customer compensates AG Davis Corporation for all losses resulting from such cancellation, including all engineering and development costs, labor and material costs already incurred as of the date of cancellation, and profit, within ten (10) days of receipt of a billing for such losses.

10. ACCEPTANCE OF PURCHASE ORDER. Any sale resulting from the quotation shall be deemed to have been made at AG Davis' office, in Sterling Heights, Michigan. Terms in buyer's purchase order or other documents which modify, add to, or are inconsistent with AG Davis Terms and Conditions of Sale shall not be binding on AG Davis, and AG Davis hereby gives notice of its objection to such terms.

11. Installation. Upon request, AG Davis service technicians will be made available to assist personnel in the installation and initial set up of equipment customers in AG Davis' facility, at prevailing service rate, plus travel time and expenses from AG Davis office (minimum charge applies). Necessary trades people and mechanical aids must be furnished by customer for machine testing, installation and try-out. The time required to install and try-out will depend on conditions such as, but not limited to, availability of mechanical handling equipment, trades people, qualified try-out parts, utilities, etc. A minimum of two (2) weeks' notice, prior to any requested installation date, must be given should the assistance of a service technician be required. All installations should be scheduled Monday-Friday (8:00 AM to 5:00 PM). Additional charges will be made for all services provided outside such days or hours or on statutory holidays. All disclaimers and limitations shall apply to installation.

12. Training. Upon request, AG Davis will be available on request to instruct customer personnel in proper set-up, adjustment, and operating procedures. A minimum of four (4) weeks' notice is needed prior to your requested training date. Special material for training will be provided at AG Davis discretion. Training required will be charged at the AG Davis prevailing rate per eight-hour day, plus travel time and expenses, with no more than six trainees per session. All disclaimers and limitations shall apply to training.

13. Instruction manuals. AG Davis will furnish one (1) Instruction Manual covering the set-up, adjustment, and operation of the AG Davis equipment, including external electrical connection wiring diagram. Additional copies of this manual will be quoted on request. AG Davis reserves the right on what operating manual form is (i.e. instructions on AG Davis PC)

14. Concept validity. All descriptions and drawings submitted for the equipment are the result of a preliminary engineering study performed by AG Davis and are the exclusive property of AG Davis. The designs and descriptions contained herein are submitted confidentially and are proprietary in nature. All unauthorized duplication or distribution of this material is strictly prohibited. AG Davis reserves the right to revise or modify the proposed solution as required (with prior approval by the customer) should further investigation find the proposed concept inappropriate.

15. Testing. Any required testing shall be limited to a repeatability test under the AG Davis Standard Acceptance Criteria.

16. Software. Customer's rights to software included with the equipment are limited to a non-exclusive license for use solely with the equipment with which it is delivered.

17. Guide to Terms of Sales: F.O.B. Origin, Freight Prepaid and Charged Back.

18. DELIVERY DATES. AG DAVIS RESERVES THE RIGHT TO CHANGE SUCH DATES. OUR ESTIMATED DELIVERY IS BASED ON A (5) DAY SCHEDULE WHICH DOES NOT INCLUDE WEEKENDS OR HOLIDAYS. THIS DELIVERY WAS DETERMINED BY OUR CURRENT WORKLOAD. YOUR ORDER MAY BE AFFECTED BY CHANGES IN OUR WORKLOAD AND YOUR DELIVERY SCHEDULE WILL BE ADJUSTED ACCORDINGLY. THE DELIVERY SCHEDULE FOR YOUR ORDER WILL BEGIN AT TIME OF DESIGN STARTS AND WILL NOT START UNTIL ALL REQUIRED INFORMATION INCLUDING, BUT NOT LIMITED TO, CUSTOMER SPECIFICATIONS, PART PRINTS, IN-PROCESS PART INFORMATION, ECT.

