



DELIVERING GOOD WATER TO YOU

TERMS AND CONDITIONS OF SALE OF PRODUCTS

JM Eagle appreciates your business. The terms and conditions of JM Eagle's sale of products are as follows:

1. ACCEPTANCE OF ORDERS: Prices are based on written, authorized JM Eagle quotes. A quote is not an offer but an invitation to Buyer to tender an offer at the quoted price. Orders are accepted only on written acknowledgement by an authorized JM Eagle representative which is conditioned on Buyer's agreement to all the terms and conditions stated herein ("Terms") and the waiver by Buyer of any terms and conditions contained in any other document or other communication of Buyer, whether previously or hereafter delivered to JM Eagle, to which JM Eagle hereby objects.

2. FREIGHT AND SHIPPING: All quotes are F.O.B. shipping point. Freight costs may be prepaid, collect or allowed depending on order size and other JM Eagle criteria in effect when the order is accepted.

3. TERMS OF PAYMENT: Payment terms, including any discount for prompt payment, will be specified in JM Eagle's invoice. Any discount for prompt payment will be given only if payment to JM Eagle is U.S. postmarked on or before the discount date shown on the invoice. All payments shall be made by Buyer without setoff. Buyer is responsible for payment of any tax or other charge imposed by governmental authorities upon the production, sale or shipment of the products.

4. LATE PAYMENT PENALTIES: Payments received by JM Eagle after the due date shall be subject to a late payment charge of 1.5% per month (18% per year) until the outstanding balance, including accrued late payment charge, is paid in full, plus collection costs (including attorney fees).

5. CREDIT: All orders and shipments are subject to the credit approval of JM Eagle. JM Eagle reserves the right at any time not to fulfill orders placed by a non-approved Buyer or to require advance payment or other security.

6. LIMITED WARRANTY AND LIMITATION OF LIABILITY: JM Eagle's Limited Warranty and Limitation of Liability as in effect at the time of the acceptance of an order shall apply to such order and is incorporated by reference herein. A copy of such Limited Warranty and Limitation of Liability is attached hereto.

7. CLAIMS:

A) All claims for damage or shortage in transit shall be handled with the carrier by Buyer. If the damage or shortage is ascertainable on arrival, Buyer and/or receiver must make a detailed note on the bill of lading before signing it, and immediately notify the carrier so that an inspector for the carrier may check the damaged products or shortage. The carrier must sign the bill of lading with noted damage. If the damage or shortage is not ascertainable on arrival, Buyer must notify the carrier within 10 days of receipt so that an inspector for the carrier may check the damaged products or shortage and provide a report noting such damage or shortage. JM Eagle will not be liable for any damage or shortage caused by a carrier.

B) Claims for breach of warranty in respect of products manufactured by JM Eagle must be made as specified in, and are governed by, JM Eagle's Limited Warranty and Limitation of Liability.

C) All other claims under these Terms or in connection with the sale of products must be made within thirty (30) days of the date of the invoice for the product. **THE SOLE AND EXCLUSIVE REMEDY FOR ANY SUCH CLAIM, AND THE SOLE AND EXCLUSIVE OBLIGATION OF JM EAGLE IN RESPECT OF ANY SUCH CLAIM, SHALL BE, AT JM EAGLE'S SOLE DISCRETION, (1) THE REPLACEMENT OF THE SAME TYPE, SIZE AND LIKE QUANTITY OF APPLICABLE PRODUCT, AT THE ORIGINAL POINT OF DELIVERY, OR (2) CREDITS, OFFSETS, OR A COMBINATION THEREOF, FOR THE WHOLESALE PURCHASE PRICE OF THE APPLICABLE PRODUCT. IN NO EVENT SHALL JM EAGLE BE LIABLE FOR LOST PROFITS, LOSS OF GOODWILL, LOSS OF BUSINESS**

OPPORTUNITIES, DAMAGE TO REPUTATION, SPECIAL DAMAGES, INDIRECT DAMAGES, DELAY DAMAGES, PUNITIVE DAMAGES, EXEMPLARY DAMAGES, CONSEQUENTIAL DAMAGES OR INCIDENTAL DAMAGES.

D) If Buyer purchases products for resale, Buyer shall notify JM Eagle immediately of any claim by Buyer's customer so that JM Eagle has an opportunity to investigate. JM Eagle shall have no obligation to honor any settlement made by Buyer with its customer without JM Eagle's prior written consent.

8. END USE AND WARNINGS: Buyer agrees to deliver to the end user JM Eagle's Limited Warranty and Limitation of Liability together with all product warnings. Buyer shall defend and indemnify JM Eagle from any claims resulting from a failure to deliver such documents and warnings.

9. FORCE MAJEURE: JM Eagle shall not be liable for or be deemed to be in default on account of any failure to perform its obligations or attempt to cure any breach thereof if JM Eagle has been delayed or prevented from doing so by any cause or condition beyond its reasonable control, including without limitation an Act of God (e.g., fire, flood, inclement weather, epidemic, or earthquake); war or act of terrorism, including chemical or biological warfare; labor dispute, lockout, strike, embargo; governmental acts, orders, or restrictions; or the failure of suppliers or third persons.

10. RETURNED GOODS: Buyer must obtain written approval before returning any products to JM Eagle. On authorized returns of conforming goods, Buyer shall be responsible for any incoming and outgoing freight charges and a handling charge of up to 25%, and will be credited at the invoiced price or the prevailing price, whichever is lower. No credit shall be allowed for products returned which are found not to be in first class resalable condition after testing, count and inspection by JM Eagle.

11. ORDER CANCELLATION: In the event of non-acceptance or repudiation by Buyer of an acknowledged order, JM Eagle may seek remedies as provided by applicable law, except that Buyer shall stipulate the profit and reasonable overhead which JM Eagle would have made from full performance by Buyer to be 25% of the contract price.

12. WAIVER AND MODIFICATIONS: No delay or failure by JM Eagle to exercise any one or more of these Terms shall be construed or shall operate as a waiver thereof. No waiver, modification or alteration of these Terms shall be effective unless made in writing and executed by the President of JM Eagle.

13. GOVERNING LAW: These Terms shall be governed by the laws of the state in which JM Eagle's headquarters are located at the time of the delivery of the applicable products, without regard to its conflicts of law principles that would require the application of the law of any other jurisdiction. Any and all disputes arising out of or relating to these Terms or the products shall be subject to the exclusive jurisdiction of the state or federal courts located in the state and county in which JM Eagle's headquarters are located at the time the proceeding is initiated or, at JM Eagle's sole election, to binding arbitration before a single arbitrator pursuant to the American Arbitration Association's Commercial Dispute Resolution Procedures, with such arbitration to take place in the state and county in which JM Eagle's headquarters are located at the time the proceeding is initiated. In the event that any provision of these Terms is held to be illegal or unenforceable by any court of competent jurisdiction or arbitrator, as applicable, the remaining provisions of these Terms shall remain in full force and effect.

14. ADMINISTRATION: JM Eagle reserves the right to revise these Terms without notice at any time.