

Terms & Conditions of Sale

All sales of products and/or services by Pacific Custom Products, Inc. (Seller) are subject to the following terms and conditions.

- 1. Agreement:** The terms on the Seller's quotation and acknowledgment and these Terms & Conditions of Sale constitute the entire agreement between Buyer and Seller. Any modification of any of these terms and conditions, including terms contained in Buyer's forms which are in addition to or in conflict with those herein shall be considered ineffective unless specifically agreed to in writing and approved and signed by a current corporate officer of Seller. Buyer's acceptance of Seller's terms shall be constituted by: Buyer's execution of any document containing these Terms & Conditions of Sale; or Buyer's acceptance of delivery of any products or services ordered from Seller. The invalidity of any provision of this Agreement will not affect the validity of any other provision.
- 2. Prices:** Prices quoted are valid for thirty (30) days unless otherwise specified in writing by Seller to be firm for a specific period of time. All orders are subject to a Sales Order Acknowledgment from Seller. Specification changes are subject to written confirmation by Seller, including price revisions and any adjustments necessary to cover Seller's material and labor expenses prior to the specification changes. Any typographical errors are subject to correction. All prices are subject to adjustment at any time upon notice to Buyer in order to reflect any significant or unforeseen increase in Seller's material, labor, transportation, or other costs.
- 3. Payment:** Upon credit approval, Buyer agrees to pay for all products and/or services purchased from Seller net thirty (30) days from the date of shipment of products or completion of services, or from the date imported products being shipped directly to Buyer have entered the United States. All amounts past due shall bear interest at the rate of 1.5% per month or the maximum lawful rate. If at any time Seller determines that Buyer's financial condition does not justify the terms specified, the Seller reserves the right to require advance payment or ship C.O.D.
- 4. Shipping and Risk of Loss:** All sales are made F.O.B. shipping point. Delivery to carrier shall constitute delivery to Buyer, and thereafter risk of loss or damage shall pass to Buyer. Any claim of Buyer relative to damage during shipping or delivery should be made directly to carrier. Seller shall determine method and routing of shipment absent specific written instructions from Buyer.
- 5. Delivery:** Any delivery dates stated by Seller prior to shipment constitute estimates only. In the event of any delay beyond Seller's reasonable control (such as accidents, unavailability of labor or supplies, equipment breakdowns, or act or omission of Buyer), the estimated delivery date shall be extended accordingly, and Seller shall not be liable to Buyer for any damages caused by the delay. Seller reserves the right to make delivery in separately invoiced installments.
- 6. Quantity:** Buyer agrees to accept an overrun or under run on each individual item ordered, not exceeding five percent (5%) of quantities ordered. Any claim by Buyer that Seller failed to deliver the agreed-upon quantity of products (subject to previous policy) must be reported by Buyer to Seller in writing within ten (10) days of receipt of the products. After such ten (10) day period, it shall be conclusively presumed that the proper quantity was delivered.
- 7. Special Tooling:** Where special tooling such as dies, jigs, programs, and their design are required to manufacture a product, and a tooling fee is charged, Buyer acquires neither ownership nor right of removal of such items from Seller's property. Any such special tooling remaining inactive in excess of 3 years may, at the option of Seller be scrapped, the resulting scrap value belonging to Seller in payment for storage costs.

- 8. Cancellation, Deferment and Returns:** Orders may be cancelled or deliveries deferred by Buyer with Seller's express written consent and only under the condition that Buyer assumes immediate liability for all of Seller's expenses incurred in connection with performance of the contract up to the date of the cancellation or deferment including: completed work for full unit sales price, work in process based on the percentage of completion, and raw material costs. All cancellation charges shall be determined at the time of cancellation or deferment. Custom products may not, under any circumstances, be returned to Seller.
- 9. Storage Fees:** If Buyer defers delivery for more than thirty (30) days, Buyer agrees to pay reasonable storage fees.
- 10. Limited Warranty:** Seller warrants to Buyer that all of its products shall be free from defects in materials and workmanship. EXCEPT AS PROVIDED HEREIN, SELLER EXPRESSLY EXCLUDES ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- 11. Remedy for Nonconforming Products:** If the products furnished to the Buyer shall fail to conform to the contract, or to any expressed warranty as stated herein, Seller, at Seller's discretion, shall repair, replace, or issue credit for such non-conforming products at the original point of delivery and shall furnish instructions for the disposition of the nonconforming products. Any claim for alleged nonconforming products or damage occurring prior to delivery must be reported by Buyer to Seller in writing, including photos of such nonconformity or damage, within thirty (30) days of receipt of the products. After such thirty (30) day period, Buyer shall be deemed to have irrevocably accepted the products and shall not have any right to reject the products for any reason. SELLER SHALL NOT BE LIABLE FOR ANY PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR EXPENSES TO BUYER OR ANY THIRD PARTY ARISING DIRECTLY OR INDIRECTLY FROM ANY DEFECT IN ITS PRODUCTS OR FROM THE USE THEREOF.
- 12. Improper Use and Indemnity:** Buyer shall indemnify, defend, and hold Seller harmless from any losses, suits, claims, or expenses, whether for personal injury, property damage or other arising out of Buyer's or any other party's improper selection, assembly, or installation, or any other misuse of products purchased by Buyer from Seller.
- 13. Patent Infringement:** Buyer shall indemnify, defend, and hold Seller harmless from any losses, suits, claims, or expenses arising out of any claim of patent infringement related to Seller's manufacture of products to Buyer's specifications.
- 14. Solvency:** Buyer hereby represents and warrants to Seller that Buyer is solvent (on a balance sheet basis) and has the unrestricted ability to pay its debts in the ordinary course of business.
- 15. Governing Law:** All contracts between Buyer and Seller shall be governed in all respects by the laws of the State of Oregon.
- 16. Reasonable Attorney's Fees:** In the event that Seller institutes a legal proceeding against Buyer with respect to a breach hereunder, or if Seller successfully defends any suit instituted by Buyer, then Seller shall be entitled to recover from Buyer reasonable attorney's fees and expenses in connection with such suit or proceeding.
- 17. Limitations:** Any claim arising out of or related to this contract must be commenced within one (1) year from the date of Seller's invoice.