

R&M MACHINE SHOP - TERMS AND CONDITIONS FOR THE SALE OF GOODS

1. Acceptance. Acceptance of any order is expressly made conditional on Buyer's assent to the terms and conditions ("terms") set forth herein, which terms shall constitute the complete agreement between the parties. These terms may not be modified in any manner unless specifically agreed to in writing by R&M Machine Shop ("Seller"). Any terms in Buyer's purchase order or other writing that represents Buyer's offer are not part of the parties' agreement and do not apply. A binding contract for the goods sold to Buyer is made under these terms upon Seller's acceptance or fulfillment of Buyer's purchase order.
2. Title and Risk of Loss. Title and risk of loss in all goods sold hereunder pass to Buyer upon tender of delivery F.O.B. Seller's facility. As collateral security for the payment of the purchase price of the goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in, to, and under the goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Alabama Uniform Commercial Code.
3. Price and Payments. Buyer shall purchase the goods from Seller at the price specified on the reverse side. Any tax or other governmental charge which may now or hereafter be imposed by any federal, state, or local authority upon the production, sale, or delivery by Seller of any good covered by this order shall be added to the price herein provided and shall be paid by Buyer. On all invoices not paid at maturity, Buyer shall pay interest in the amount of 1.5% per month.
4. Limited Warranty.
 - (a) Seller warrants that the goods manufactured by it and sold hereunder shall be free of defects in material and workmanship and shall conform to the description stated on the face hereof or, if applicable, to Buyer's specifications, if accepted by Seller in writing. In the event of breach of this limited warranty, and upon timely notice by Buyer in accordance with paragraph 6 hereto, Buyer's sole remedy and Seller's sole obligation to Buyer is as set forth in such paragraph 6.
 - (b) Goods, subcomponents, or materials not manufactured by Seller and/or subjected to third party manufacturing or other processes ("Third Party Products") may constitute, contain, be contained in, incorporated into, attached to, or packaged together with the goods sold hereunder. Third Party Products are not covered by the warranty stated in paragraph 4(a), and Seller makes no warranty whatsoever with respect to Third Party Products.
 - (c) EXCEPT AS EXPRESSLY PROVIDED HEREUNDER, SELLER MAKES NO OTHER WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY; WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WARRANTY OF TITLE; OR WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.
5. Limitation of Liability. SELLER IN NO EVENT SHALL BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES INCURRED BY BUYER OR ANY THIRD PARTY IN CONNECTION WITH THE GOODS SOLD HEREUNDER, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, SALES, REVENUE, OR GOODWILL; LOSS OF USE OF GOODS OR ANY ASSOCIATED EQUIPMENT OR MATERIAL; COSTS OF SUBSTITUTE PRODUCTS, GOODS, OR MATERIALS; DOWN TIME COSTS; ATTORNEYS' FEES; OR LOSSES OR CLAIMS OF CUSTOMERS OF BUYER FOR SUCH DAMAGES.
6. Inspection and Rejection of Nonconforming Goods and Exclusive Remedy.
 - (a) Buyer shall inspect the goods immediately upon receipt. Buyer will be deemed to have accepted the goods unless it notifies Seller in writing of any allegedly nonconforming goods within 5 days of receipt and furnishes such written evidence or other documentation as reasonably required by Seller.
 - (b) If Buyer timely notifies Seller of any allegedly nonconforming goods in accordance with paragraph 6(a), and Seller determines upon its own investigation that such goods are nonconforming, Seller shall, at its option and in its sole discretion, (i) repair or replace such nonconforming Goods with conforming goods, or (ii) credit or refund the purchase price paid by Buyer for such Nonconforming goods. Buyer shall ship, at its expense and risk of loss, the nonconforming goods to Seller's facility. If Seller exercises its option to replace nonconforming goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer conforming goods according to the terms stated herein. BUYER ACKNOWLEDGES AND AGREES THAT THESE ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR DELIVERY OF NONCONFORMING GOODS.
7. Waiver. No waiver by Seller of any of the provisions of this agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these terms operates, or may be construed, as a waiver thereof or of any other term herein.
8. Confidential Information. All non-public, confidential, or proprietary information of Seller or of a third party in Seller's rightful possession, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement, and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.
9. Force Majeure. Seller shall not be responsible for any failure to perform in accordance with any term herein due to causes beyond its control, including but not limited to acts of God, labor disputes or shortages, acts of government or judicial action, or inability or delay in securing materials, parts, or components, provided that such inability or delay is not a result of any action or inaction on the part of Seller.
10. Jurisdiction and Venue. Any dispute arising out of or relating to this agreement shall be subject to exclusive jurisdiction and venue in a court having jurisdiction over DeKalb County, Alabama, and each party submits to such jurisdiction and waives any objection to venue or convenience of the forum.
11. Entire Agreement. This Purchase Order is the entire and integrated agreement between the parties concerning the subject matter hereof and supersedes all other agreements and communications between the parties hereto. Any provision in the Seller's quotation which conflicts with, or is in addition to, the provisions stated in this Purchase Order shall not become a part hereof unless expressly agreed in a writing signed by Buyer.