



## Standard Terms and Conditions

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Quality Quartz Engineering, LLC (hereinafter "Seller") acknowledgement of any Purchase Order placed by Buyer with Seller is based solely upon Buyer's acceptance and agreement to the Terms and Conditions of Sale outlined below. Seller expressly rejects any and all other terms and conditions of sale communicated in any way by the parties in connection with this transaction. The Order Acknowledgement provided by Seller and these Terms and Conditions of Sale, which form part of the Order Acknowledgement, constitute the complete contract of sale between Buyer and Seller, unless Buyer objects to any term, in writing, within seven (7) days from the date listed on the Order Acknowledgement. Buyer's acceptance of product delivery evidences Buyer's acceptance of and agreement to be bound by these Terms and Conditions.

**TERMS OF PURCHASE ORDER ACCEPTANCE AND COMPLETE AGREEMENT.** This agreement may not be modified or altered except in writing duly executed by both parties. No additional or different terms and conditions stated in or attached to Buyer's communications to Seller, including but not limited to Buyer's purchase orders are applicable to this transaction in any way, and are hereby rejected and shall not be considered as Buyer's exceptions to these terms and conditions. Trade custom, trade usage, and past performance are hereby superseded and shall not be used to interpret these terms and conditions. Fulfillment of Buyer's Purchase Order by Seller does not constitute acceptance of any of Buyer's terms and conditions and does not modify or amend these Terms and Conditions. These Terms and Conditions and the related Order Acknowledgement supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both oral and written.

**DELIVERY, TITLE, AND RISK OF LOSS.** Title to and risk of loss for the goods shall pass to the Buyer F.O.B. point of origin unless otherwise expressly agreed to in writing by an authorized officer of Seller. Buyer shall promptly take delivery of the goods following notice that the goods have been delivered at the point of origin. Buyer shall be responsible for all loading costs and provide all equipment and labor reasonably suited for receipt of the goods at the delivery point. Seller may, in its sole discretion, without liability or penalty, make partial shipments of goods to Buyer. Each Shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's Purchase Order. Although Seller may elect to assist Buyer in connection with pursuing any claim for damages, Seller shall not thereby assume any obligations for such damage.

**PAYMENT.** Payment terms are net thirty (30) days from date of invoice unless special terms have been agreed upon in writing by both the Seller and the Buyer. Any amounts not paid when due shall accrue interest at the rate of (1) 1.5% per month, or (2) at the highest rate permitted by law, at Seller's sole discretion.

**SECURITY.** If at any time Buyer's financial responsibility appears unsatisfactory to Seller and Buyer fails to provide, at Seller's request, satisfactory security, or if Buyer fails to comply with the terms of payment hereunder, Seller may, without prejudice to any of its other rights, defer manufacture and/or shipment of goods until Buyer fulfills these obligations.

**CANCELLATION.** Buyer acknowledges and agrees that goods supplied by Seller are custom manufactured goods and are not stocked items. Because goods are specially manufactured, orders placed by Buyer may not be cancelled prior to manufacture without Seller's written consent. Buyer may not cancel an order once manufacturing of good has begun. Seller reserves the right to cancel any sale without liability to Buyer (except a refund of monies paid) if the manufacture or sale of product becomes impossible, impracticable, or technically or economically unfeasible.

**SELLER WARRANTY.** Seller warrants that the goods delivered to Buyer in connection with the Order Acknowledgement meet Seller's standard specifications for the goods in effect at the date of delivery. This warranty is void and of no effect if the goods or any articles made from the goods are not stored or handled in accordance with the product specifications. Seller makes no further warranty regarding the goods. **THE FOREGOING WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM ANY COURSE OF DEALING OR TRADE USAGE.** In case of a breach of this warranty attributable solely to the actions or omissions of Seller, at Seller's option, the goods will be repaired or replaced or a credit in the amount of the sales price will be issued for the goods that fail to meet the warranted specifications following Seller's inspection of returned goods. **THE FOREGOING REPRESENTS BUYER'S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THIS WARRANTY.** No claim under this warranty will be valid, and Seller shall not be liable to Buyer for a breach of the warranty set forth above, unless: (i) Buyer notifies Seller in writing within forty-five (45) days from the date of shipment of any alleged defect reasonably describing the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine the allegedly defective goods; and (iii) Seller reasonably verifies Buyer's claim that the goods are defective. If instructed, Buyer will return any defective product in compliance with Seller's shipping instructions. Additionally, Seller shall not be liable for a breach of the warranty set forth herein if: (a) Buyer makes any further use of such goods after giving notice to Seller alleging such goods are defective; or (ii) Buyer alters or repairs such goods without the prior written consent of Seller.

**LIMITATION OF LIABILITY.** SELLER'S RESPONSIBILITY FOR ANY CLAIMS, DAMAGES, EXPENSES, LOSSES, OR LIABILITIES ARISING OUT OF OR RELATED TO THE GOODS DELIVERED IN ACCORDANCE WITH ANY ORDER ACKNOWLEDGMENT OR FOR ANY NON-DELIVERY OF SUCH GOODS SHALL NOT EXCEED THE PURCHASE PRICE PAID BY BUYER FOR SUCH GOODS. IN NO EVENT SHALL SELLER BE LIABLE, IN BREACH OF WARRANTY, CONTRACT, TORT, STRICT LIABILITY, OR UNDER ANY OTHER LEGAL THEORY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, AND/OR PUNITIVE DAMAGES OR ANY EXPENSES FOR LOST PROFIT, LOST REVENUE, PROPERTY DAMAGE, PERSONAL INJURIES, OR LOST PRODUCTION, WHETHER SUFFERED BY BUYER OR ANY THIRD PARTY, REGARDLESS OF WHETHER BUYER WAS INFORMED ABOUT THE POSSIBILITY OF SUCH DAMAGES, AND IN NO EVENT WILL SELLER'S TOTAL LIABILITY EXCEED AN AMOUNT EQUAL TO THE SALES PRICE OF THE GOOD GIVING RISE TO THE LIABILITY.

**INDEMNIFICATION.** Buyer agrees to indemnify, defend, and hold Seller harmless from any and all claims, demands, losses, damages, expenses (including legal and attorneys' fees) and liabilities resulting from or in any way related to the goods delivered in accordance with this Order Acknowledgement.

**FORCE MAJEURE.** Seller shall be excused for delays in delivery or performance where such delay is due to acts of God, acts of Buyer not within its rights, actors of civil or military authority, fires, strikes, floods, epidemics, war, riot or other similar causes beyond Seller's control which Seller could not have reasonably foreseen or protected against.

**WAIVER.** In no event shall any failure or delay by exercising any right hereunder be construed or found to operate as a waiver of such right.

**VALIDITY.** In the event that any portion(s) of these Terms and Conditions is(are) found to be invalid, or otherwise unenforceable, such finding shall not affect the validity of the remaining portion(s).

**GOVERNING LAW; VENUE.** These terms and conditions shall be governed by the laws of the State of Ohio, USA, without regard to any conflict of laws provisions. Any legal suit, action or proceeding arising out of or relating to these Terms and Conditions shall be instituted in the federal courts of the United States of America or the courts of the State of Ohio in each case located in the City of Dayton and County of Montgomery, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

**SEVERABILITY.** If any term or provision of these terms and conditions is invalid, illegal or unenforceable in any applicable jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of these terms and conditions or invalidate or render unenforceable such term or provision in any other jurisdiction.

**RELATIONSHIP OF THE PARTIES.** The relationship between Buyer and Seller is that of independent contractors. Nothing in these terms and conditions shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**SURVIVAL.** Provisions of these Terms and Conditions which by their nature should apply beyond their terms will remain in force after any termination or expiration of the applicable Purchase Order including, without limitation, the provisions regarding limitation of liability, indemnification, governing law and venue, and survival.