



Precision Metal Products LLC
21500 North 8th Way Suite 140
Phoenix, AZ 85024
(480) 699-5037

TERMS AND CONDITIONS OF SALE

- 1. Terms and Conditions.** All purchases of Products by Purchaser from Precision Metal Products LLC are subject to all the terms and conditions contained herein and upon no other terms and conditions. Precision Metal Products LLC's acceptance of Purchaser's order is expressly made conditional upon Purchaser's assent to all of Precision Metal Products LLC terms and Precision Metal Products LLC objects to any terms or conditions at variance with, different from or additional to the terms set forth herein, unless such terms are set forth in a writing signed by an authorized officer of Precision Metal Products LLC. Any amendment to or any waiver, modification, or deletion of any of Precision Metal Products LLC terms shall be ineffective unless such amendment, waiver, modification, or deletion is accepted in a writing signed by authorized officer of Precision Metal Products LLC.
- 2. Order and Acceptance.** Purchaser's acceptance of Precision Metal Products LLC's terms shall be conclusively presumed by: (a) Purchaser's submission of a credit application to Precision Metal Products LLC; (b) Purchaser's written purchase order or (c) Buyer's acceptance of delivery of any products ordered from Precision Metal Products LLC. Precision Metal Products LLC will use reasonable efforts to notify Purchaser of the acceptance "order Acknowledgment" of an order within five (5) business days of its receipt.
- 3. Prices.** The Price to Purchaser for the purchase of each of the Products shall be set forth in the Quotation, shall be in U.S. Dollars, shall include packaging for domestic shipment, and shall be exclusive of any other amounts, including, without limitation, taxes, freight, insurance, special packaging, and other shipping expenses. Except as otherwise explicitly stated in the Quotation, Precision Metal Products LLC has the right at any time to revise the prices in the Quotation without notice to Purchaser, and such revisions shall apply to all orders received after the effective date of revision.
- 4. Taxes.** Unless otherwise indicated herein, Precision Metal Products LLC prices do not include any taxes due or payable on account of the transactions between Purchaser and Precision Metal Products LLC, and all such taxes shall be paid by Purchaser. If Purchaser is exempt from any such taxes, Purchaser must provide Precision Metal Products LLC with a valid tax exemption form
- 5. Payment.** Precision Metal Products LLC will invoice Purchaser for each shipment. If all Products in Purchaser's purchase order are not shipped at the same time, Precision Metal Products LLC will invoice Purchaser at the time of shipment for the Products that have shipped. Provided Purchaser has an approved credit application and unless otherwise agreed in writing, one hundred percent (100%) of the amount invoiced shall be due in full and payable thirty (30) days from the invoiced date or within the established and authorized pay period, and payment shall be made in U.S. Dollars by wire transfer, check, or other form of payment approved by Precision Metal Products LLC. Any invoiced amount not paid when due shall be subject to a service charge of (1.5%) per month or the maximum lawful rate, whichever is greater. Precision Metal Products LLC may also, at its option, a) revoke any previously granted terms of credit, and/or b) revoke any previously granted discount, reverting to Precision Metal Products LLC standard pricing. If Purchaser fails to make timely payments of outstanding invoices, Precision Metal Products LLC may withhold or suspend its performance under this Agreement. Purchaser shall pay all of Precision Metal Products LLC costs and expenses (including its reasonable attorney's fees) to enforce and preserve Precision Metal Products LLC rights under this section.
- 6. Shipping.** All shipment dates provided by Precision Metal Products LLC are estimates only, and Purchaser acknowledges that such dates may change due to events and circumstances beyond the control of Precision Metal Products LLC. Products delivered pursuant to the terms of this Agreement shall be suitably packed for shipment in Precision Metal Products LLC standard shipping cartons, marked for shipment to Purchaser's address, and delivered to Purchaser or its carrier agent F.O.B Precision Metal Products LLC manufacturing warehouse, at



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which time risk of loss shall pass to the Purchaser. Unless otherwise instructed by the Purchaser, Precision Metal Products LLC shall select the carrier. All freight, insurance, and other shipping expenses, as well as any special packing expense shall be paid by the Purchaser. Purchase also agrees that no delivery pursuant to this Agreement shall be construed as a single lot contract under the UCC. In addition, remedies provided under a single lot contract shall not apply to any shipment hereunder.

7. **Delivery Terms.** Precision Metal Products LLC shall not be liable for any goods lost, damaged, or destroyed in transit, it being agreed by the Parties that all risk of such loss, damage, or destruction is assumed by Purchaser. When the scheduled delivery of Products is delayed by Purchaser, Precision Metal Products LLC may deliver such Products by storing them for the account of and at the sole risk of Purchaser. Shipping dates are approximate and are based upon prompt receipt of all necessary information and approvals from Purchaser. Precision Metal Products LLC reserves the right to pack or ship orders in the most economical manner, however, where Purchaser requests special packaging or shipping, any additional cost will be billed to Purchaser and be the responsibility of Purchaser.
8. **Failure to Deliver and Force Majeure.** Precision Metal Products LLC shall not be responsible for delays in delivery, or failure to deliver due to causes beyond its reasonable control, including without limitation, acts of God, acts of purchaser, government action (civil or military), taking or preempting of Precision Metal Products LLC production facilities, legal interferences or prohibitions, fires, strikes, or other labor difficulties, hostilities, insurrections or riots, terrorist actions or threats, embargoes, equipment breakdown, wrecks or delays in transportation, unusually severe weather, inability to obtain necessary labor, failure of suppliers, material or manufacturing facilities due to causes beyond its reasonable control or any like or dissimilar cause beyond its reasonable control. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay. Precision Metal Products LLC shall have the right, in its sole discretion, to furnish suitable substitutes for materials that cannot be obtained because of the above causes and to apportion its shipment among its Purchasers in such a manner as it shall be equitable. If the material, apparatus, or equipment is or thereafter becomes subject to government control, allocation, regulation or restriction, the necessary and proper rating certificate shall be supplied by the Purchaser. Delivery dates are from receipt of purchase order, prints, models, and materials, whichever is later, which are to be furnished by the Purchaser. Due to the nature of Precision Metal Products LLC custom work, delivery dates are estimates and not guarantees, and Purchaser understands and agrees to reasonable delays in delivery. Overtime and other direct costs incurred to hasten delivery of Purchaser's request shall be added to the stated prices and paid by Purchaser. Shipment of goods ready for delivery can be deferred beyond date for delivery only with Precision Metal Products LLC consent and upon full payment of Precision Metal Products LLC invoice for, same plus storage costs. There shall be no penalties for late shipments.
9. **Cancellation or Changes.** An accepted purchase order is not subject to cancellation for change except on terms acceptable and satisfactory to Precision Metal Products LLC, including reasonable cancellation charges in the event of cancellation or an equitable price adjustment in the event of changes in order. Direction from Purchaser to cancel may be treated as a repudiation, making the Purchaser immediately liable for loss, expense, and other damages sustained. If the purchase order is canceled or delayed before the completion of the contract, Purchaser shall reimburse and/or indemnify Precision Metal Products LLC for costs incurred by Precision Metal Products LLC up to the date of cancellation or delay and for all damages sustained by Precision Metal Products LLC due to cancellation or delay of the contract.



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10. **Modifications to Designs.** Precision Metal Products LLC will make recommendation to design however will not make design changes without written approval from purchaser. Precision Metal Products LLC is a "Build to print" manufacturing facility.
11. **Security Interest.** For the purpose of securing payment of the price of Precision Metal Products LLC, Products and all other charges payable to Precision Metal Products LLC hereunder, Purchaser hereby grants to Precision Metal Products LLC a security interest in each and every Product delivered to Purchaser under this Agreement, including, without limitation, any proceeds from its resale or distribution, or from insurance held by Purchaser covering the Products. Upon request by Precision Metal Products LLC, Purchaser shall cooperate with Precision Metal Products LLC and execute any necessary documents, including but not limited to the execution and filing of UCC-1 financing statements, to perfect Precision Metal Products LLC's security interest granted herein, where required by state law. These interests will be deemed satisfied and released by payment in full of the purchase price and all other charges payable hereunder for each such period.
12. **Product Acceptance.** Purchaser shall be deemed to have accepted delivery of Products ("Product Acceptance") and all shipments and charges shall be deemed correct, unless Precision Metal Products LLC receives written notice of objection within ten (10) business days from the date of delivery (the "Rejection Period"). After Product Acceptance, Purchaser agrees that its remedies are limited to the remedies contained in Section (Return Material Authorization) of this Agreement. In the event of rejection of the Product within the Rejection Period, Purchaser shall give notice to Precision Metal Products LLC of such rejection.
13. **Limited Warranty.** Precision Metal Products LLC warrants that all good delivered under this Purchase Order will conform to the requirements of this Purchase Order (including all applicable descriptions, specifications, drawing and samples) will be free from defects in material and workmanship and will be free from defects in design and fill for the intended purposes. Precision Metal Products LLC's sole and exclusive obligation hereunder is to repair or replace any defective component(s) provided that Precision Metal Products LLC receives written notice of the defect during the period of warranty and purchaser receives written authorization for return of component(s) to Precision Metal Products LLC. The expense of removal and installation of any item(s) of equipment shall not be included in this warranty. In no event shall Precision Metal Products LLC be liable for any special, general, incidental or consequential damages to purchaser, or any third party caused by any defective item of equipment whether defect is warranted against or not. Precision Metal Products LLC shall have no obligation under this agreement to make repairs or replacement necessitated by act of God, act of terrorism, fault, misuse, modification, negligence or accident of purchaser or other users. **ALL OTHER WARRANTIES AS TO THE QUALITY, CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OTHER THAN THOSE STATED ABOVE IS EXPRESSLY DISCLAIMED.**
14. **Return Material Authorization.** In the event of rejection, Purchaser must give written notice to Precision Metal Products LLC of such event requesting a Return Material Authorization ("RMA") number. Any such notice must furnish the following information with the Product returned to the Seller: (a) Purchaser's name and complete address; (b) name and telephone number of Purchaser's employee to contact if there are questions about the returned Product; (c) "Ship to" address for return of repaired Product, if different from original delivery address; (d) a complete list of Product returned, including description and item number; and (e) a description of the nature of the defect. Precision Metal Products LLC will provide the RMA to Purchaser within (5) business days after receipt of Purchaser's proper and timely notice. Within (7) days after its receipt of the RMA, Purchaser will return the rejected Product to Precision Metal Products LLC, or its designee, freight, or postage prepaid, in its original shipping carton or a functionally equivalent container. Precision Metal Products LLC reserves the right to refuse to accept any return Product (a) not bearing an RMA number on the outside of the carton; (b) not containing the



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required documentation accompanying the shipment; or (c) not shipped in its original shipping carton or a functionally equivalent container.

- 15. Limitation of Liability.** Precision Metal Products LLC obligation under its warranty is strictly and exclusively limited to the repair or replacement of such Product found to be defective in material or workmanship on the condition that the Purchaser gives prompt written notice to Precision Metal Products LLC of any claim within the Rejection or Warranty Periods, and, if requested, returns the defective articles to Precision Metal Products LLC. Precision Metal Products LLC will not assume any expenses or liability for repairs made to its Products outside of its Warehouse, without its prior written consent. Any unauthorized repair shall void the Limited Warranty contained herein. Precision Metal Products LLC reserves the right to satisfy its warranty obligation in full, with respect to defective articles, by the payment to the purchaser of all sums paid by the Purchaser to Precision Metal Products LLC for such Products. IN NO EVENT SHALL Precision Metal Products LLC BE LIABLE FOR CLAIMS (BASED UPON BREACH OF CONTRACT, EXPRESS OR IMPLIED WARRANTY, NEGLIGENCE, OR OTHERWISE) FOR ANY DAMAGES, WHETHER DIRECT, IMMEDIATE, INCIDENTAL, FORESEEABLE, CONSEQUENTIAL, PUNITIVE, OR SPECIAL, including but not limited to, loss of profits or revenue, loss of use of the Products or facilities or service, downtime cost, or claims of the Purchaser for such damages. Precision Metal Products LLC liability on any claim whether in contract, tort (including, but not limited to, negligence), warranty, strict liability, or otherwise for any loss or damage arising out of connected with, or resulting from these Terms of Sale or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, servicing, operation or use of any Product covered by or furnished under this contract shall be limited to, and in no case shall such damages exceed, the purchase price of the Product or the portion thereof which gives rise to the claim. PURCHASER ACKNOWLEDGES THAT IT HAS NOT BEEN INDUCED TO PURCHASE THE PRODUCTS MANUFACTURED BY Precision Metal Products LLC BY ANY REPRESENTATION OR WARRANTY NOT SET FORTH IN THESE TERMS OF SALE. THIS LIMITATION OF LIABILITY CANNOT BE WAIVED OR AMENDED BY ANY PERSON. THIS LIMITATION OF LIABILITY WILL BE EFFECTIVE EVEN IF Precision Metal Products LLC KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.
- 16. Amendment and Termination.** Precision Metal Products LLC may amend these Terms of Sale at will, with or without cause, on thirty (30) days' notice to Purchaser. Precision Metal Products LLC may terminate these Terms of Sale at will, with or without cause, on three (3) days' notice to Purchaser.
- 17. Governing Law and Jurisdiction.** This Agreement shall be governed and construed under the laws of the State of Arizona without reference to choice of law principles. Any dispute or claim arising out of or relating to this Agreement, or the performance or breach thereof, shall be settled in Maricopa County, Arizona by arbitration administered by the American Arbitration Association, in accordance with its Commercial Arbitration Rules, which are expressly incorporated herein by reference. Judgment on any award rendered by the arbitrator(s), including attorney's fees and costs of arbitration, may be entered in any court in Maricopa County having jurisdiction to hear such matters. The parties hereby acknowledge and consent to the jurisdiction of the Arizona courts and venue in Maricopa County, Arizona for all purposes.
- 18. Legal Expenses.** In any action between the parties arising out of or connected with these Terms and Conditions, the prevailing party in such action shall be awarded, in addition to any damages, injunctive or other relief, all of its costs and expenses, including but not limited, to its reasonable attorney's fees.
- 19. Indemnification.** Purchaser agrees to defend, protect, save, and hold harmless Precision Metal Products LLC against all suits from all damages, claims, and demands for actual or alleged infringement of any patent,



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trademark, or copyright by reason of Precision Metal Products LLC execution of the designs, prints, drawings, requirements, or specifications of Purchaser.

- 20. Purchaser's Property.** Precision Metal Products LLC shall have the right to scrap, without liability, prints submitted for quotation, as well as models, patterns, tools, fixtures or other property belonging to Purchaser unless written directions for shipment of such property are given to Precision Metal Products LLC within (30) days of notification by Precision Metal Products LLC.
- 21. Entire Agreement.** These terms and conditions constitute the entire understanding between the parties relating to the subject matter herein and merges all prior discussions between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless placed in writing, and signed by authorized representatives of the Parties.
- 22. Severability.** If any term or condition herein, or the application thereof to any individual or circumstance, shall be deemed to be invalid or unenforceable, the remainder of these terms shall not be affected thereby, and all such terms, covenants or conditions shall be valid and shall be enforced to the fullest extent permitted by law.