

## GENERAL TERMS AND CONDITIONS

### 1. GENERAL PROVISIONS

- a. The following definitions are used hereafter in this document.
- b. "Seller": refers to Fittings Unlimited, Inc with its registered office in 3000 Ave F Arlington, TX 76011 USA.
- c. "Buyer": refers to the person, firm, or company the purchase order is received from.
- d. The terms and conditions set out below (the "General Terms and Conditions of Sale") shall form part of all the agreements executed between the Seller and the Buyer for the supply of the Seller products (the "Products"), and they will prevail over any general rules submitted by the Buyer, unless accepted in writing by the Seller.
- e. The Seller reserves the right to change, integrate or vary the General Terms and Conditions of Sale, by including such variations in the quotations or in any other written correspondence sent to the Buyer.

### 2. OFFER; ACCEPTANCE; TERMS OF SALE

- a. This Offer of Sale (Offer) made by Seller, or its subsidiaries is subject to the terms and conditions set forth below.
- b. This Offer may be accepted by Buyer (Buyer), verbally or in writing by fax or electronic confirmation. Buyer's order for any products, when communicated to Seller shall also constitute acceptance of this Offer and the terms and conditions set forth below.
- c. Acceptance of this Offer is expressly limited to these terms and conditions set forth below. Seller hereby objects to any terms and/or conditions proposed by Buyer's purchase order or otherwise, which are additional to or different from these terms and conditions; and such additional and/or different terms or conditions shall not become part of this Offer or part of any sales contract between Seller and Buyer.

### 3. PAYMENT - DISCOUNT AND CREDIT TERMS

All orders are subject to a \$35.00 minimum billing charge per order.

#### Net Terms:

Seller accepts checks, money orders, electronic transfers (ACH/Wire) for terms Buyers. For Buyers with established Seller credit terms, payment terms are net thirty (30) days from the date of shipment or pick-up of products. All credit extended by Seller to Buyer and the limits of such credit, is at Seller's sole discretion, and may be reduced or revoked by Seller at any time, for any reason. As a condition for the continued extension of credit, Buyer agrees to provide Seller with current credit information when requested. The cash discount terms are two percent (2%) if payment is received by Seller within ten (10) days from the date of invoice. All payments must be made in U.S. dollars. Seller has the right of set-off and deduction for any sums owed by Buyer to Seller. If Buyer fails to make payment within thirty (30) days of shipment or pick-up, or fails to comply with Seller's credit terms, or fails to supply adequate assurance of full performance to Seller within a reasonable time after requested by Seller,

Seller may defer shipments until such payment or compliance is made, require advance payment for any further shipments, demand immediate payment of all amounts then owed, elect to pursue collection action (including without limitation, attorneys' fees and any and all other associated costs of collection), and/or may, at its option, cancel all or any part of an unshipped order. Additionally, Buyer, and each of its subsidiaries and affiliates, agrees to provide to Seller proper authorization necessary for Seller to request any financial information from third parties.

Credit Card Terms:

Orders placed for by credit card customers are subject to a 3% processing fee and not eligible for any cash discounts. Buyers on credit card terms can opt out of backorders to avoid complications from delayed processing of payments. Seller will keep no more than two credit cards on file per account. Buyer is responsible for contacting Seller with updated information if the card on file is over extended or no longer active. Seller will attempt to process card for payment no more than 2 times. Delays due to issues processing credit card payments can result in delayed orders. Inventory on order will not be committed to Buyer during processing delays. Continuous issues with processing payments for any one Buyer may result in credit hold.

**CREDIT BALANCE**

Buyer agrees that any credit balance(s) issued by Seller will be applied to Buyer's account within one (1) year of its issuance. IF BUYER HAS NOT MADE THIS REQUEST WITHIN ONE (1) YEAR, ANY REMAINING CREDIT BALANCE WILL BE CANCELLED, AND SELLER SHALL HAVE NO FURTHER LIABILITY.

**4. SALES TAX**

Buyer is responsible for payment of all applicable state and local taxes, or for providing a valid sales tax exemption certificate.

**5. SHIPMENT AND DELIVERY**

All deliveries shall be made F.O.B. Seller's Warehouse. Risk of loss shall pass to Buyer upon Seller's delivery to a carrier. Seller shall have no liability for delays in delivery.

**6. INSPECTION**

- a. Buyer has a period of five (5) working days after receipt of shipment in which to inspect the products received. Buyer may reject or refuse acceptance of any and all products not strictly in conformance with the requirements of Buyer's purchase order.
- b. All non-conforming products will be held at Buyer's risk and will be returned to Seller in accordance with the terms below (see RETURNS).
- c. Payment for goods shall constitute acceptance thereof.
- d. Any claims by Buyer for omissions or shortages in a shipment will be waived unless Seller receives written notice thereof within five (5) working days after Buyer's receipt of shipment.

## 7. RETURNS

- a. Fittings Unlimited Inc. has a 30 day return policy. If the return is not due to an error by FUI, there may be a 20% or \$20 restocking fee, whichever is greater. The Buyer will be responsible for the return freight as well. If a return is requested after 30 days, it is the policy of Fittings Unlimited Inc. to deny that request. Parts must be received within 30 days from the issuance of the RGA (Return Good Agreement). A credit of funds will be made on the purchaser's account once the parts are received in and inspected. If the Buyer fails to return the parts, they forfeit any credit due.
- b. If a return is necessary because of error by FUI, the 30-day window may be extended. The return may be accepted without a restocking fee and following inspection a freight credit may be added to the Buyer's credit. Supporting documentation may be requested by FUI from the Buyer. Such documentation may include but are not limited to pictures. Any testing done by the Buyer, or a third party will need to be complete with supporting documentation. This testing or documentation will not satisfy as evidence of any wrongdoing by FUI. Fittings Unlimited Inc. reserves the right to have their own independent testing to satisfy the return. If Fittings Unlimited Inc. accepts fault for the return, a credit will be made to the Buyer's account, including a freight credit if necessary.
- c. Should Fittings Unlimited Inc. review and agree to be responsible for the return, FUI may decide that a return is not necessary. In any case fitting this scenario, a credit to the Buyer's account will be processed without the issue of a Return Goods Authorization. If a return fitting this scenario is not due to the fault of Fittings Unlimited Inc., but a return is not necessary, a 20% or \$20 Processing Fee may be assessed, whichever is greater. The Buyer may do as they please with parts in question.
- d. Special orders or MTO (made to order) parts are not available for return. Also, the Buyer may be responsible for up to a 10% overrun on Specials and MTO's.

## 8. WAIVER:

Waiver of any breach of this Agreement shall not be construed as a waiver of any other breach. Buyer's failure to insist, upon Seller's performance of any of obligation under this order or to exercise any right, is not a waiver or relinquishment of future performance or the future exercise of a right, but Seller's obligations with quantities or delivery dates of outstanding product orders or may request cancellation all or part of any purchase order no later than five (5) business days prior to scheduled shipment or the actual shipment date, whichever shall first occur. Seller may accept or reject such requested modifications or cancellations at Seller's discretion, but any such changes/modifications shall only be deemed accepted by Seller upon the terms set forth in a written amendment submitted to Buyer. Orders for non-stock, special or customized products are not subject to modification or cancellation.

## 9. DISPUTE RESOLUTION

Buyer has thirty (30) days after receipt of shipment in which to inform Fittings Unlimited via written notice of any product pricing, freight charge, or other related disputed items so matters can be resolved in a timely fashion.

## **10. CHANGES, RESCHEDULES AND CANCELLATIONS**

Buyer may request modification of the quantities or delivery dates of outstanding product orders or may request cancellation all or part of any purchase order no later than five (5) business days prior to scheduled shipment or the actual shipment date, whichever shall first occur. Fittings Unlimited may accept or reject such requested modifications or cancellations at Fittings Unlimited's discretion, but any such changes/modifications shall only be deemed accepted by Fittings Unlimited upon the terms set forth in a written amendment submitted to Buyer. Orders for non-stock, special or customized products are not subject to modification or cancellation.

## **11. TOOLING**

Seller may assess a tooling charge for any special tooling, including dies, fixtures, molds, patterns, materials, and drawings required to manufacture products sold hereunder. Notwithstanding payment of any charges by Buyer, Seller will own all rights and title to such special tooling and shall have the sole and exclusive right to alter, discard or otherwise dispose of any special tooling or other property in its sole discretion at any time and without notice to Buyer. In no event will Buyer acquire any interest in apparatus belonging to Seller utilized in the manufacture of the products sold hereunder, even if such apparatus has been specifically converted or adapted for such manufacture and notwithstanding any charges paid by Buyer.

## **12. INTELLECTUAL PROPERTY**

The "Intellectual Property" of Seller shall mean all intellectual property rights related to the Assets or Businesses of Seller as they are now or may in future exist or be conducted, including without limitation: any and all rights, privileges and priorities arising under the laws or treaties of the United States, any state, territory or possession thereof, any other country or political subdivision or territory thereof, or the European Community, relating to intellectual property, including patents, copyrights, trade names, trademarks, service marks, mask works, trade secrets, inventions, databases, names, logos, photos, images, descriptive verbiage and other information (Data ), trade dress, technology, know-how, and other proprietary information and licenses that have been issued by or filed with the appropriate authorities, any common-law rights arising from the use of the foregoing, any rights commonly known as "industrial property rights" or the "moral rights" of authors relating to the foregoing, all rights of renewal, continuations, divisions, extensions and the like regarding the foregoing and all claims, causes of action, or other rights arising out of or relating to any actual or threatened Infringement by any person relating to the foregoing; all computer applications, programs and other software, including without limitation operating software, network software, firmware, middleware, and design software, all design tools, systems documentation and instructions, databases, and related items; and all cost information, sales and pricing data, Buyer prospect lists, supplier records, Buyer and supplier lists, Buyer and vendor data, correspondence and lists, product literature, artwork, design, development and manufacturing files, vendor and Buyer drawings, formulations and specifications, quality records and reports and other books, records, studies, surveys, reports, plans and documents.

### **13. INTELLECTUAL PROPERTY USE**

Seller may approve from time-to-time limited use of photos, images, descriptive verbiage, and other information (Data) regarding Seller's products. Seller always retains all rights to Data, indefinitely. Seller may revoke permission to use Data at its sole discretion, Buyer must cease all use of Data should it ever fall out of good standing with Seller, Data may not be shared with anyone other than through the intended means agreed upon, without advance permission.

### **14. PRODUCT WARRANTY; LIMITATION OF REMEDY**

For a period of twelve (12) months from the date of shipment from Seller's warehouse, Seller warrants that its products shall meet Seller's specifications and performance standards for that product and shall otherwise be free from defects in material and workmanship. This Warranty shall not apply to, and Seller gives no Warranty whatsoever with respect to, any products manufactured, in whole or in part, in accordance with designs or specifications provided by Buyer. Damage to any products sold hereunder due to abuse, misuse, improper use, inadequate maintenance, or failure to follow Seller's installation, use or service recommendations will automatically void this Warranty. See terms at <http://www.Fittings Unlimitedinc.com>. "Terms" / Product Warranty.

THE ABOVE WARRANTY CONTAINS THE SOLE AND EXCLUSIVE WARRANTY CONCERNING PRODUCTS SOLD. SELLER DOES NOT MAKE ANY OTHER WARRANTY, GUARANTEE OR REPRESENTATION OF ANY KIND, WHETHER EXPRESS, IMPLIED, ARISING BY OPERATION OF LAW, TRADE USAGE OR COURSE OF DEALING, ALL OF WHICH, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. IN THE EVENT SELLER DETERMINES THAT A PRODUCT DOES NOT COMPLY WITH THE

ABOVE WARRANTY, BUYER'S SOLE REMEDY AND SELLER'S SOLE LIABILITY RELATING TO SUCH PRODUCTS SHALL BE LIMITED TO REPLACEMENT OF THE PRODUCTS SOLD OR A REFUND OF THE PURCHASE PRICE PAID, AT SELLER'S OPTION. SELLER SHALL NOT BE LIABLE TO BUYER OR TO ANY THIRD PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DAMAGES DUE TO LOST PROFITS.

### **15. FORCE MAJEURE**

Seller does not assume the risk of and shall not be liable for delay or failure to perform any of Seller's obligations by reason of circumstances beyond the reasonable control of Seller, including due to accidents, acts of God, strikes or labor disputes, acts, laws, rules or regulations of any government or government agency, fires, floods, delays, or failures in delivery of carriers or suppliers, shortages of materials and any other causes beyond Seller's control.

### **16. ENTIRE AGREEMENT/GOVERNING LAW**

The terms and conditions set forth herein, together with any amendments, modifications or different terms or conditions expressly accepted by Seller in writing, shall constitute the entire agreement covering the products sold by Seller to Buyer. This Offer shall be governed by the law of the State of Ohio. Neither Buyer nor Seller may bring any action arising out of or related to the products sold hereunder more than two (2) years after the cause.