

# PACIFIC MACHINERY & TOOL STEEL COMPANY

3445 N.W. LUZON ST. • PORTLAND, OREGON 97210-1694

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VISIT OUR WEBSITE AT [www.pmtSCO.com](http://www.pmtSCO.com)

## TERMS AND CONDITIONS OF SALE

For the mutual protection of our customers, hereinafter called the Buyer, and Pacific Machinery and Tool Steel Co., hereinafter called the Seller, the following terms and conditions are made a part of every sale with Pacific Machinery and Tool Steel Company. The Buyer's acceptance of all or any part of the goods described on the Seller's Sales Order shall constitute the Buyer's agreement to the Terms and Conditions contained herein and supersedes all previous agreements. The Terms and Conditions stated herein shall take precedence over any other Terms and Conditions and no contrary, additional or different Terms and Conditions shall be binding on the Seller unless accepted by the Seller in writing.

1. **PRICES.** Prices as quoted by Seller are subject to change without notice. Seller's prices in effect at the time of shipment will govern at Seller's options.

2. **DELIVERY.** Seller will make every effort to maintain delivery dates; however, Seller shall not be liable for deliveries later than promised regardless of cause or for any damages suffered by the Buyer by reason of such late deliveries. In the event of delay or hindrance by public authority, existence of war, shortage of materials, fires, labor difficulties, accidents, delays in manufacture or transportation, acts of God, embargoes or any other causes beyond Seller's control. Seller shall have the right, at its option, to cancel the order, or any part thereof, without any resulting liability.

3. **TRANSPORTATION.** Prices as quoted for goods and services are Net F.O.B., Seller's warehouse, unless otherwise stated. The best judgement of the Seller will be used in routing shipments unless detailed instructions are given by Buyer. Upon delivery of goods by the Seller to the carrier or Buyer, all risk of loss is transferred to the Buyer. Seller shall have no liability for claim in shipment or delivery.

4. **CLAIMS.** All claims for defective or non-conforming good, services, shortages, or any other cause, shall be deemed waived and released by the Buyer, if not made in writing within ten (10) days after receipt of the goods or services. Seller reserves the right to investigate any claims, including the right to inspect material or obtain samples for analysis. Returns are subject to restocking charges.

5. **WARRANTY.** SELLER WARRANTS ONLY THAT THESE GOODS ARE FREE FROM DEFECTS OF MATERIAL OR WORKMANSHIP. THIS WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, CLAIMS, WARRANTY OR OTHERWISE, NOT MADE WITHIN TEN DAYS OF DELIVERY ARE INVALID. SELLER'S SOLE LIABILITY FOR ANY WARRANTY CLAIMS OR ANY OTHER CLAIMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO REPAIR OR REPLACEMENT OF DEFECTIVE OR NONCONFORMING

GOODS OR SERVICES OR TO THE REFUND OF THE PURCHASE PRICE UPON THE RETURN OF THE GOODS TO THE SELLER, SUBJECT TO SELLER'S INSPECTION. SELLER IS NOT LIABLE FOR ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUYER ASSUMES ALL RISK AND LIABILITY FOR LOSS, AND THIS SHALL BE BUYER'S SOLE REMEDY. **SELLER SHALL NOT BE LIABLE FOR INJURIES TO PERSONS OR PROPERTY OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSSES NOR FOR ANY OTHER LOSS OR DAMAGE ATTRIBUTABLE IN ANY WAY DIRECTLY OR INDIRECTLY TO THESE GOODS OR THE SELLER'S ACTIONS OR INACTIONS WITH RESPECT THERETO.** NO WAIVER, ALTERATION OR MODIFICATION OF THE FOREGOING CONDITIONS SHALL BE VALID UNLESS MADE IN WRITING AND SIGNED BY AN EXECUTIVE OFFICER OF SELLER. UPON DELIVERY OF GOODS TO CARRIER OR BUYER ALL RISK OF LOSS IS UPON BUYER. BUYER AGREES EFFECTIVELY TO INCLUDE THIS WARRANTY AND LIABILITY LIMITATIONS AND EXCLUSIONS IN ANY SUBSEQUENT DISPOSITION, USAGE, OR EMPLOYMENT OF THE GOODS HEREIN.

6. **SPECIAL ORDERS.** If any goods are sold by the Seller to meet the Buyer's particular specifications or requirements and is not part of the Seller's standard line offered to the trade in the usual course of the Seller's business, the Buyer agrees to accept standard trade tolerances, variations in respect to dimensions, weight, straightness, surface condition, composition, mechanical properties, over and under shipments as allowed by published standards in lieu of any specific agreements otherwise agreed to in writing between Buyer and Seller and which are acceptable to the third party from which Seller has obtained the goods. Special Orders are not subject to cancellation or return without Seller's approval and are subject to cancellation fee or return charges.

7. **INDEMNITY.** The Buyer agrees to defend, protect, and save harmless the Seller against all suits at law or in equity and from all damages, claims, and demands for actual or alleged infringement of any United States or foreign patent and to defend any suit or actions which may be brought against the Seller for any alleged infringement because of the sale of the goods covered thereby.

8. **GOODS AND SERVICES.** Goods and services furnished by the Seller are to be within the limits and of the sizes published by the Seller and subject to the Seller's standard tolerance for variations.

9. **CREDIT.** Performance by Seller is subject to the Buyer furnishing evidence of financial standing. If in Seller's judgment reasonable doubt exists as to the Buyer's sound financial standing, or if any portion of account is past due in payment, the Seller reserves the right, without liability and prejudice to Seller, to suspend current or further shipments or to require full or partial payment in advance until Seller has adequate assurance of Buyer's payment.

10. **TERMS OF PAYMENT.** Subject to the provisions of credit approval above, Buyer shall pay in accord with the terms as stated on the face hereof. Cash discount, if any, is 1% 10th/25th Net 30 Days.

### Invoice Date Discount Payment Due

1st through 15th on or before 25th same month

16th through 31st on or before 10th of following month

Invoices not discounted, due net 30 days from date of invoice.

In order to take advantage of the discount, Buyer must have payment **postmarked** no later than the last day of the discount period.

**Discounts are not applicable to taxes, transportation or other services.**

11. **PAYMENT.** All payments are to be made to:  
PACIFIC MACHINERY & TOOL STEEL COMPANY  
3445 N.W. Luzon Street  
Portland, OR 97210-1694

Payment should include remittance advice designating invoices and other charges being paid. If deductions are made, the discount amount, credit memo number, or customer debit memo number should also be shown. If remittance advice is not provided, payments will be applied against the oldest invoices on the account.

12. **INVOICES AND STATEMENTS.** The invoice is the Seller's receivable document and is mailed immediately after shipment. Statements will only be provided upon request or for reconciliation of account transactions.

13. **PAST DUE ACCOUNTS.** Invoices are considered past due if payment is not made within 30 days of the date of the invoice. Seller may, at its sole and absolute discretion, delay any shipment without notice or may change Buyer's credit terms. Service charges of 2% will be added to all past due account balances.

14. **MINIMUM CHARGE.** An applicable minimum charge will be made on all orders.

15. **LAWS GOVERNING.** All orders will be governed by the laws of the State of Oregon. Buyer agrees to submit itself to the jurisdiction of the courts of Multnomah County, Oregon where the Seller has its executive office.

16. **TAXES.** In addition to the prices provided for herein, the Buyer shall pay all Federal, State, County and Municipal taxes imposed by reason of any sale. The Buyer is responsible to provide Seller with tax exemption certificates, if applicable. Discounts are not applicable.

17. **CHANGES OR CANCELLATION.** An order once placed with and accepted by Seller can be cancelled or changed only with Seller's consent and upon terms that will indemnify Seller against loss.

18. **EXECUTION.** The Buyer's Purchase Order may be executed and transmitted to Seller by facsimile or e-commerce if necessary or convenient and, when so executed and transmitted, shall be deemed an original.

19. **REIMBURSEMENT AND ATTORNEY FEES.** In the event Buyer defaults in the performance of these Terms and Conditions of Sale, Buyer shall be liable to Seller for all loss, costs and expenses incurred by Seller by reason of the default including, without limitation, Seller's reasonable attorney's fees whether or not suit or action is instituted. If suit or action is filed to enforce any of these Terms and Conditions of Sale, Buyer promises to pay (1) Seller's reasonable attorney's fees to be fixed by the trial court and (2) if any appeal is taken from any decision of the trial court, such further sums as may be fixed by the appellate court. If the account is turned over to a collection agency, Applicant(s) agree(s) to pay all collection fees and costs in collecting past due amounts.

20. **ENTIRE AGREEMENT.** The foregoing, shall constitute the complete and exclusive agreement between the parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions, guaranties or obligations whatsoever, either expressed or implied other than as herein set forth or provided for shall be binding on either party.