

TERMS AND CONDITIONS

1. **DELIVERY.** Pierce will use reasonable efforts to deliver products or complete services by dates requested by Customer. Customer's exclusive remedy for any unexcused delay in delivery will be to cancel the order for the delayed products or services.

2. TAXES, FREIGHT AND PAYMENT.

(a) Prices are F.O.B. Pierce's facilities, Portland, Oregon, and exclude sales, use, and similar taxes. Pierce will invoice Customer for freight charges and, unless Customer provides a tax exemption certificate, applicable taxes.

(b) Customer bears all risk of loss or damage during transport. Pierce will arrange for insurance during transport, at Customer's request and expense. Customer is to notify the carrier or insurer in case of damage during transport.

(c) Payment terms are as stated on the front of this invoice. Overdue amounts will bear a late payment charge of 1 1/2 percent per month or, if less, the maximum lawful rate, from the invoice date.

(d) If Customer fails to pay amounts due Pierce under this invoice or any other agreement, Pierce will have the right to cancel any orders already accepted but not yet delivered to Customer, to refuse to make further shipments, and to require payment in advance for further orders, in addition to other available remedies.

3. WARRANTY AND LIMITATIONS.

(a) Pierce warrants that products and services will be free from defects in materials and workmanship for 30 days from delivery to Customer (or any longer period stated in a written warranty provided to Customer by Pierce for a specific product).

(b) Pierce's warranty does not apply to products that have been subjected to misuse or accident, that are improperly installed by Customer, or that have been modified or repaired by anyone other than Pierce personnel.

(c) EXCEPT FOR THE EXPRESS WARRANTY STATED ABOVE OR IN ANY WRITTEN WARRANTY DELIVERED TO CUSTOMER WITH A PRODUCT, PIERCE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION,

IMPLIED WARRANTIES AGAINST INFRINGEMENT, OF MERCHANTABILITY, OR OF FITNESS FOR A PARTICULAR PURPOSE.

4. **REMEDIES AND LIMITATIONS.** Customer's remedy for breach of any product warranty is limited to repair, replacement, or refund of the purchase price of any defective product (at Pierce's option). Customer's remedy for breach of any service warranty is limited to correction of or refund of the charge for any defective service (at Pierce's option). IN NO EVENT WILL PIERCE BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, HOWEVER CAUSED. REGARDLESS OF THE THEORY OF LIABILITY, PIERCE'S LIABILITY WITH RESPECT TO ANY PRODUCT OR SERVICE WILL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCT OR CHARGE FOR THE SERVICE.

5. **ACCEPTANCE.** Customer must notify Pierce in writing of any defect in products or services within five business days following receipt of products or completion of services. Failure to so notify Pierce constitutes acceptance of products and services.

6. **RETURNS.** Customer must obtain a Product Return Authorization from Pierce before returning any product. Pierce will not accept and will not be responsible for any product returned without a Product Return Authorization, and reserves the right to refuse to issue such an authorization other than for warranty service. Customer will pay all transport costs if Pierce determines that a returned product does not qualify for warranty service. If Pierce permits return of a product other than for warranty service, Pierce reserves the right to charge a restocking fee.

7. **SECURITY INTEREST.** To secure payment of amounts due, Customer hereby grants to Pierce a security interest in the products sold. In case of Customer's default in payment, Pierce will have the rights provided by these Terms and Conditions and all rights of a secured party under the Uniform Commercial Code.

8. **RESPONSIBILITY FOR CUSTOMER'S MATERIALS.** Pierce is not responsible or liable for damage to or loss or destruction of drawings, samples, patterns, fixtures or other items provided by Customer. Pierce may dispose of such materials if Customer does not request their return upon delivery of products or completion of services. Customer will

indemnify Pierce against all loss, liability, and cost (including attorney fees at or before trial and on appeal) incurred as a result of any claim that Pierce's use of such materials or any Customer design infringes the rights of any other party.

9. **FORCE MAJEURE.** Pierce is not liable for any delay in or failure of performance caused by governmental regulation, fire, flood, wind, strike, labor disturbances, accident, epidemic, embargo, act of God, or any other cause beyond Pierce's reasonable control, any of which will be considered an excused delay.

10. **GENERAL.** Any modification or waiver of these Terms and Conditions must be in writing and refer specifically to these Terms and Conditions. In any litigation or proceeding concerning the products or services, the prevailing party will be entitled to recover all reasonable attorney fees incurred at trial, on appeal, and on any petition for review, together with other costs allowed by law. These Terms and Conditions are governed by Oregon law, excluding choice of law rules and, together with the information on the front of this form, represent the entire agreement between Pierce and Customer. DIFFERENT OR ADDITIONAL PROVISIONS OF ANY PURCHASE ORDER OR SIMILAR DOCUMENT SUBMITTED BY CUSTOMER ARE OBJECTED TO AND ARE NOT BINDING ON PIERCE. Pierce's acceptance of any purchase order or similar document submitted by Customer is expressly conditioned on Customer's assent to these Terms and Conditions.



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