

Customer Terms and Conditions

GENERAL: These Customer Terms and Conditions (these "Terms and Conditions") shall apply to all quotations for purchase orders delivered by Womack Machine Supply Co. ("Womack") (such quotations to remain open for only thirty (30) days unless earlier terminated by Womack) and all purchase orders submitted by you (herein "Buyer") and accepted by Womack.

PRICING, TAXATION AND PAYMENT TERMS: Prices stated on the body of any quotation or invoice does not include taxes. Taxes are invoiced as a separate item, unless certificates of exemption acceptable to the taxing authorities are provided by Buyer. Standard payment terms are net thirty (30) days from the date of the invoice. If Buyer ever becomes delinquent with its payment obligations, or if Womack believes that Buyer's business operations cause a risk of collection, Womack may require that all purchase orders be paid on a C.O.D. basis. All past due accounts will bear interest at the rate of the lesser of: (i) fifteen percent (15%) per annum; and (ii) the maximum rate permitted by applicable law. Payment terms, imposed by third party vendors, may require advance installment or progress payments by Buyer. Upon termination or breach of any installment purchase order by such third party vendor, Womack shall have no liability or responsibility to Buyer regarding the repayment or recovery of any installation or progress payment.

TERMINATION OF THE ORDER OR PAYMENT TERM CHANGES: Womack reserves the right to terminate a quoted price prior to acceptance by Buyer. Further, Womack reserves the right to terminate any accepted purchase order, or Womack may change the terms of payment of any purchase order, if at any time prior to shipment of the order, (i) Womack deems there is a significant change in Buyer's financial condition; (ii) there is a change in ownership of Buyer; (iii) there is a breach by Buyer of any purchase order or any provision in these Terms and Conditions and such breach is not cured within ten (10) days of Womack's delivery of written notice to Buyer identifying such breach; or (iv) if any petition is filed or proceeding commenced by or against Buyer under any state or Federal law relating to bankruptcy, reorganization, receivership or assignment for the benefit of creditors. Any such termination of the quoted price, accepted purchase order or change of payment terms will be without liability to Womack, and shall be effective upon delivery of written notice by Womack to Buyer.

After Womack's acceptance of Buyer's purchase order, or Buyer's acceptance of Womack's quotation, the order may also be terminated by mutual written agreement of Womack and Buyer. Upon such mutual termination, Womack may levy termination charges of up to 100% of the non-cancelable goods. The termination charges may include, without limitation the recovery costs or costs in process of Womack or Womack's supplier incurred up to the date of the agreed termination.

SHIPMENTS: Materials will be shipped F.O.B. origin, freight prepaid, and all associated charges will be added to the invoice. Buyer guarantees payment of prepaid freight. If Buyer specifies a carrier, the goods must be picked up at the place of business of Womack or Womack's supplier within three (3) business days of written notification by Womack that the goods are completed by Womack or Womack's supplier. If Buyer fails to coordinate pick-up of the goods within such three (3) day period, Womack or Womack's supplier may charge Buyer a reasonable storage fee (to be paid by Buyer upon demand).

WARRANTY:

Components Not Manufactured by Womack But Distributed By Womack: For any goods or components not manufactured by Womack, Womack extends to Buyer only that warranty which is extended by the manufacturer (such warranty to be asserted through and against such manufacturer). The components are warranted to meet the specifications of the manufacturer if they are applied and maintained according to the specifications of the manufacturer.

Hydraulic, Pneumatic, And Electrical Circuits Supplied By Womack For Distributed Components: Womack may provide circuit layouts as a service to Buyer based upon Buyer's specifications for an application. Womack has no control over the implementation and usage of these circuits in Buyer's application and therefore disclaims any warranty or liability for these circuits. Specifically, but not by way of limitation, Womack shall have no responsibility for, and Womack shall have no liability related to, these circuits.

Power Units And Electrical Control Panels Fabricated By Womack Systems, L.C. For Womack: Certain assemblies, including, without limitation, power units and electrical control panels, may be developed by Womack Systems, L.C. (an affiliated company of Womack) for Womack. These assemblies, when properly installed and maintained by Buyer, are warranted to be free of defects in materials and workmanship for a period of one (1) year from the date of shipment. The installation and startup of these assemblies is the responsibility of Buyer. Womack shall not be liable for installation, supervision, or work done by the agents of Buyer. Womack shall also not be responsible for Buyer's misuse of the goods, failure of Buyer to properly service the goods, or Buyer's use of the goods in a manner inconsistent with their intended purpose.

Exclusions: WOMACK MAKES NO OTHER WARRANTY OR REPRESENTATION OTHER THAN AS SET FORTH IN THESE TERMS AND CONDITIONS AND EXPRESSLY DISCLAIMS ANY WARRANTY AS TO FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. IT IS FURTHER EXPRESSLY AGREED BY BUYER THAT WOMACK SHALL NOT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR LOSS OF BUSINESS FROM THE FAILURE, IN PART OR IN FULL, OF ANY GOODS ACQUIRED BY BUYER FROM WOMACK. ANY CLAIM FOR BREACH OF WARRANTY MUST BE PRESENTED IN WRITING PRIOR TO ONE (1) YEAR AFTER SALE. THE SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY SHALL BE THE REPLACEMENT OF THE WARRANTED GOODS OR REFUND OF THE PURCHASE PRICE, AT THE OPTION OF WOMACK. EXCEPT AS SET FORTH HEREIN, WOMACK HAS MADE NO AFFIRMATION OF FACT, DESCRIPTION OF THE GOODS OR PROMISE THAT: (i) HAS BECOME ANY BASIS OF THE BARGAIN HEREIN; OR (ii) RELATES TO THE GOODS BEING SOLD THAT HAS CREATED OR AMOUNTED TO AN EXPRESS WARRANTY THAT THE GOODS WOULD CONFORM TO ANY SUCH AFFIRMATION OR PROMISE OR TO ANY DESCRIPTION OF THE GOODS, EXCEPT TO IDENTIFY THE GOODS TO THE CONTRACT. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO

BUYER. THIS WARRANTY GIVES BUYER SPECIFIC LEGAL RIGHTS, AND BUYER MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE.

RETURNS OF DEFECTIVE GOODS: If Buyer deems components of the assembly defective, Buyer must give Womack timely written notice of the defective component or assembly. Womack will determine if the defect was caused by improper installation or maintenance by Buyer. If the non-conformance of the goods is the result of defects in materials or workmanship, Womack will repair or replace the goods. Delivery of replacement goods will be based upon the delivery lead times of Womack's suppliers. If the goods are to be replaced, Womack will issue Buyer a written authorization to return the goods prepaid freight to the supplier of Womack. Womack will replace the goods F.O.B. shipping point. Womack does not agree to a refund of the cost of the goods or services to Buyer.

PERFORMANCE: Womack will not be responsible for any claims or costs, including, without limitation, late fees or penalties, levied by Buyer for delays caused by, but not limited to, strikes, lockouts, accidents, fire, delay in transportation, acts of God, embargoes, Year 2000 capability issues, governmental action or any other causes beyond Womack's control.

INDEMNIFICATION: Womack shall be held liable only for those acts or omissions resulting from the sole negligence of Womack or Womack's employees, and Buyer shall indemnify, defend and hold harmless Womack against liability for Buyer's sole negligence, contributory negligence, or willful misconduct.

ALTERNATIVE DISPUTE RESOLUTION:

Mediation: The parties agree to submit any claim, controversy or dispute (collectively, a "Dispute") arising out of or relating to a purchase order or these Terms and Conditions to non-binding mediation prior to bringing such Dispute in an arbitral tribunal, court or any other tribunal. The mediation shall be conducted in Dallas, Texas, through either an individual mediator or a mediator appointed by a mediation services organization or body experienced in the mediation of general business disputes, agreed upon by the parties and, failing such agreement within a reasonable period of time after a party has notified the other party of its desire to seek mediation of any Dispute (not to exceed fifteen (15) days), by the American Arbitration Association (the "AAA") in accordance with its rules governing mediation. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorneys' fees incurred by the parties), shall be borne by the parties equally.

Arbitration: If the parties are unable to resolve the Dispute within forty-five (45) days after the mediator has been chosen, then, upon election and action by either party, such Dispute shall be finally settled by arbitration in accordance with the terms hereof. Such arbitration may be initiated by any party serving upon the other party notice stating that the notifying party desires to have such Dispute reviewed by an arbitrator. The parties shall mutually agree upon a single arbitrator. If the parties cannot mutually agree upon an arbitrator within fifteen (15) days of either party's request for arbitration, then upon written request by either party, the AAA shall select an arbitrator in accordance with its rules governing arbitration. The parties agree that the arbitrator chosen shall not in any manner be related to or affiliated with either of the parties. Except as otherwise set forth herein, the arbitral proceedings shall be conducted in Dallas, Texas in accordance with and subject to the commercial arbitration rules of the AAA in effect from time to time. The decision in writing of the arbitrator so selected or appointed shall be final and conclusive upon both parties. The costs and expenses of arbitration, including the compensation and expenses of the arbitrator, shall be borne by the parties as the arbitrator may determine. Either party may apply to any court which has jurisdiction for an order conforming the award. Any right of either party to judicial action on any matter subject to arbitration hereunder is hereby waived, except suit to enforce the arbitration award.

Equitable Relief: Notwithstanding the preceding, the parties acknowledge that this Alternative Dispute Resolution's Section shall not preclude either party from seeking equitable relief from a court of competent jurisdiction (i.e., for a temporary or permanent injunction, etc.) necessary to protect a party's interests upon a breach of a purchase order or these Terms and Conditions.

MISCELLANEOUS:

All notices, requests, consents, and other communications under these Terms and Conditions shall be in writing and shall be deemed to have been delivered on the date personally delivered or the date deposited in the United States Postal Service, postage prepaid, by certified mail, return receipt requested, or faxed and confirmed, if addressed to the respective parties at the addresses communicated by each party to the other. Either party hereto may designate a different address by providing written notice of such new address to the other party hereto.

All purchase orders and these Terms and Conditions shall be construed and enforced in accordance with and governed by the laws of the State of Texas, and venue for any proceeding relating to the same shall be in Dallas County. The waiver by one party of a breach of any provision of a purchase order or these Terms and Conditions by the other party shall not operate or be construed as a waiver of any subsequent or continuing breach by the waiving party.

Buyer may not transfer, assign or sublicense all or any part of a purchase order or any part of these Terms and Conditions, except with the express prior written consent of Womack.

All terms of a purchase order and all provisions of these Terms and Conditions shall be binding upon and inure to the benefit of the parties hereto, including any successors or permitted assigns.

These Terms and Conditions, with each purchase order, cancels and supersedes all prior negotiations and understandings between the parties relating hereto, and embodies the entire agreement and understanding between such parties with respect to the matters covered hereby, notwithstanding the delivery of any other terms and conditions and/or similar documents or agreements by Buyer to Womack. If there is a conflict between a provision in these Terms and Conditions and a term in a purchase order, the provision in these Terms and Conditions shall govern and control. The terms of a purchase order and the provisions of these Terms and Conditions may be amended only by an instrument in writing executed by Buyer and a duly authorized executive officer of Womack.