



Terms and Conditions

General:

Any proposal or offer to sell from Mechanical Power, Inc., ("MPI" or "Seller") is subject to the terms and conditions listed below:

Credit Limit:

To establish an account with MPI, a credit application must be completed and submitted for approval and a credit limit established. A minimum of three (3) positive credit references must be confirmed by Mechanical Power before a credit application will normally be approved. Upon approval, purchases may be made to the set limit in accordance with the payment terms noted below. Mechanical Power reserves the right to change credit limits at any time based on the customer's payment history.

Prices:

The most recent published price will supersede all previous prices unless agreed upon in writing by Mechanical Power.

Minimum Orders:

In placing an order with Mechanical Power, the customer acknowledges awareness and acceptance of these general terms and conditions of sale. Orders are considered accepted when confirmed with our standard sales order acknowledgement form. There is a minimum order amount of \$75.00 each shipment unless otherwise agreed upon.

Taxes:

All taxes are the responsibility of the purchaser. No sales, use, retailer's occupation, service occupation, service use, or any other form of taxation will be borne by MPI.

Payment Terms:

Payment Due Net 30: Terms are Net 30 days after the date of invoice (assuming credit application approval). All payments are to be made in United States currency (unless otherwise agreed in writing by Seller in advance of shipment).

Tooling: "Tooling" shall mean such tooling, jigs, dies, gauges, fixtures, molds and/or patterns, as are required for the production of goods or parts that is beyond the prototype stage of engineering. When applicable, payment terms for customized Tooling, unless otherwise provided in Seller's quotation or the Tooling Purchase Order, shall be fifty percent (50%) of the price to be paid at order, with the remaining fifty percent (50%) to be paid at completion of Tooling, and sample acceptance, unless otherwise stated.

Change Orders:

Any order that is changed at any time after the purchase order is entered is subject to an added charge and a delay in scheduled production/delivery. The charge will vary, depending upon the completion stage of the order.

At the time of change, the revised price and/or production/delivery schedule must be agreed upon before the change order will be implemented.

MPI will attempt to meet the original schedule if possible.

Any verbal change order must be confirmed in writing as soon as possible. If a verbal change order is not confirmed in writing, MPI will not be responsible for any incorrect shipments made.

Order Cancellations:

All Proposed cancellations must be submitted in writing. A verbal cancellation of an order must be confirmed in writing within 48 hours. If a verbal cancellation is not confirmed in writing, MPI, will not be responsible for any incorrect shipments made.

Cancellation of an order for standard components is subject to a charge to be determined at the time of cancellation.

Cancellation of an order for non-standard components is subject to a charge to cover all labor and materials used by MPI, for those components.

Standard products that are returned are subject to a 20% restocking charge. These items must be in 'as new' condition and will be subject to inspection. Any rework that may be required to get the returned products in 'as new' condition will be charged to the customer.

Non-standard components are not returnable.

Payment for any cancellation charges are due immediately upon notice of cancellation.

Return of Materials:

Any return of product will require a Return Material Authorization (RMA) number before it will be received by MPI

A request for an RMA must be confirmed in writing. Upon approval, an RMA number with instructions for returning the material will be either faxed or sent via E-mail to the customer. This form must accompany the returned material.

Items must be received within 15 days of authorization.

All items returned must be sent with the freight pre-paid. MPI, will not be responsible for any freight charges on returned items. MPI will refund after analysis if necessary.

Shipping:

All prices listed are F.O.B. from the Wauconda, IL Distribution Center unless otherwise specified. All orders are shipped prepaid with freight added to the invoice unless other arrangements are made by the customer.

MPI will use either common freight carriers or UPS to ship all orders unless otherwise requested.

It is the responsibility of the consignee to thoroughly inspect the shipment upon arrival for any damages or shortages. This should be done prior to signing the delivery receipt or freight bill. If damages or shortages are noted, a record of this must be made on the freight bill while the truck driver is present in order to have a viable claim with the freight company.

If damages to the component parts have occurred during shipment, it is the responsibility of the consignee to accept the shipment and file the proper claim with the carrier. MPI will not accept refused, damaged shipments returned by the freight company.

Force Majeure:

The Seller shall not be liable for any default or delay in performance if caused, directly or indirectly, by Acts of God: way: force of arms: fire: the elements: riot: labor disputes: picketing or other labor controversies: sabotage: civil commotion: accidents: any governmental action, prohibition or regulation: delay in transportation facilities: shortage or breakdown of or inability to obtain or non-arrival of any to or, material, or equipment used in the manufacture of the Products: failure of any party to perform any contract with the Seller relative to the production of the Products: or from any cause whatsoever beyond the Seller's control, whether or not such cause be similar or dissimilar to those enumerated. Seller shall promptly notify the Buyer of the happening of any such contingency and of the contemplated effect thereof on the manufacture and delivery of the Products.

Loss to Buyer's Property, Patent, Trademark or Copyright Infringement, Etc.:

MPI shall not be liable for and shall have no duty to provide insurance against any damage or loss to any goods or materials of the Buyer which are used by MPI regarding this order. Where any product is manufactured from patterns, plans, drawings.

Limited Warranty; Disclaimer of Warranties; Limitation on Liability:

In no event shall the Seller be liable to the Buyer for any special, indirect, incidental or consequential damages arising out of, or as the result of, the sale, delivery, non-delivery, servicing use or loss of use of the products or any part thereof, or for any charges or expenses of any nature incurred without the Seller's written consent, even though the Seller has been negligent. In no event shall the Seller's liability under any claim made by the Buyer exceed the purchase price of the products in respect of which the damages are claimed.

Seller warrants that the merchandise sold hereunder shall be free from defects in materials and workmanship under normal use and proper maintenance for a period of one (1) year from the date the merchandise is delivered to an end user, or for a period of eighteen (18) months from the date of delivery from seller to buyer, whichever shall occur first. The sole and exclusive obligation of seller to buyer during this warranty period shall be to repair or replace any merchandise that is determined to be nonconforming or defective, or to refund buyer's full purchase price, at the option of seller, provided that the following provisions have been fulfilled: (a) the application of the merchandise was approved by seller; (b) the merchandise deemed to be nonconforming or defective is delivered to seller with transportation charges prepaid; and (c) subsequent analysis by seller verifies that the merchandise was properly handled, installed, and lubricated per Relubrication Recommendations document, where applicable, and was not modified, altered or subjected to abuse or to operating conditions exceeding seller's recommendations. **THE FOREGOING WARRANTY SHALL BE THE SOLE LIABILITY OF SELLER AND IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE. SELLER NEITHER ASSUMES NOR AUTHORIZES BUYER TO ASSUME FOR IT ANY OTHER OBLIGATION OR LIABILITY IN CONNECTION WITH THE MERCHANDISE WITHOUT SELLER'S PRIOR WRITTEN CONSENT. IN NO EVENT SHALL SELLER BE HELD LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LABOR FOR INSTALLATION OR REMOVAL OF MERCHANDISE, SHIPPING COSTS, OR FOR ANY LOSS OF PROFITS OF BUYER, ITS CUSTOMERS, OR OTHER END USERS OF THE MERCHANDISE.** This warranty constitutes the complete and exclusive agreement between seller and buyer or end user related to the merchandise. Any provisions, terms or conditions of buyer's purchase order or similar forms which are inconsistent with or in addition to the terms of this agreement shall not be binding upon the seller and shall have no application to buyer or seller or to the merchandise and services performed hereunder.

Venue:

Governing Law and Jurisdiction: This Agreement shall be governed by and construed in accordance with laws Illinois, County of Lake and the parties hereby submit to exclusive jurisdiction of the Illinois courts.