

PARTSSOURCE, INC.
TERMS AND CONDITIONS OF SALE
Effective January 7, 2015

- 1. OFFER AND ACCEPTANCE; ENTIRE AGREEMENT** – These Terms and Conditions of Sale (the “Agreement” or the “Terms”) are incorporated by reference into all sales made by PartsSource, Inc. (“Seller”) for any and all products or services (together, the “Goods”) being sold by Seller to buyer (“Buyer”). These Terms and Conditions of Sale shall supersede all prior understandings, transactions and communications, whether written or oral, between the parties with respect to the subject matter hereof, and shall form the complete contract between Seller and Buyer. These Terms and Conditions of Sale shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. SELLER’S ACCEPTANCE OF ANY OFFER MADE BY BUYER TO PURCHASE GOODS IS EXPRESSLY CONDITIONED UPON BUYER’S ASSENT TO THESE TERMS AND CONDITIONS. Any modification, alteration, amendment, additional or conflicting term contained in Buyer’s order form or other written or oral communication is hereby objected to and rejected, and shall not be binding upon Seller unless otherwise specifically agreed to in writing by an authorized management-level representative of Seller. The terms and conditions contained herein may be modified or cancelled by Seller at any time prior to acceptance. Additionally, Seller and Buyer acknowledge and agree that the sale of the Goods described herein is not a consumer transaction.
- 2. PRICES; PAYMENT** – Prices do not include federal, state or local taxes imposed on the Goods including, without limitation, sales, use or excise taxes; such taxes, if any, shall be paid by Buyer in addition to the price of the Goods. If Seller is required to prepay any such tax or fee, Buyer will reimburse Seller for such amount. Buyer must provide Seller with a resale/tax exemption certificate, if applicable. All terms of payment shall be as specified by Seller in writing and shall be made in good funds (U.S. Dollars) without set-off or deduction, or if no terms of payment are specified, payment is required within thirty (30) days of the invoice date (NET 30). Seller may decline at any time either to accept an order, or to ship the Goods subject to an order, until Seller has received payment in full from Buyer. Unpaid balances shall bear interest from the due date at the rate of 1.5% per month, not to exceed the maximum lawful limit. Buyer agrees to pay reasonable costs, including reasonable attorneys’ fees, incurred by Seller to collect any amounts due hereunder. Buyer may not withhold or set-off any payment because of any dispute or claim. Orders and/or invoices may include additional fees or charges as applicable including, but not limited to, the following: medical device excise taxes, shipping, handling and/or processing fees, credit card fees, shipping cut-off fees, priority/expediting fees, minimum order fees, exchange fees, drop ship fees, OEM/manufacture/supplier fees, or other similar charges or fees. Orders under \$100.00 are subject to a minimum order fee of \$10.00. Seller reserves the right to correct errors in pricing, discount calculation, or billing (e.g., typographical errors, formula errors, etc.), and will notify Buyer of the corrected price; if Buyer does not choose to pay the corrected price, Seller may cancel the order without further obligation, except for the obligation of refund if payment was made in advance.
- 3. DELIVERY** – Delivery of the Goods described herein shall be FOB Origin, Freight Prepaid and Charged Back (i.e., Seller pays freight and adds it to invoice; Buyer bears freight, handling and processing costs; Buyer owns goods in transit). Seller will use commercially reasonable efforts to meet the scheduled dates for shipment and delivery, but does not guarantee any delivery or completion date. Seller shall not be liable for any loss, damage, expense or charge of any kind resulting from delay in shipment or delivery.
- 4. TITLE AND RISK OF LOSS OR DAMAGE** – Despite any agreement with respect to delivery terms or prepayment of transportation or insurance charges, the title and risk of loss or damage shall pass to Buyer, and delivery shall be deemed to be complete, upon delivery to a private or a common carrier or upon moving the Goods into storage, whichever occurs first.
- 5. INSPECTION/ACCEPTANCE OF GOODS** – Buyer shall be responsible for inspecting all Goods prior to acceptance; provided, however, that if Buyer has not given Seller written notice of rejection within five (5) business days following receipt by Buyer, the Goods shall be deemed to have been accepted by Buyer.
- 6. WARRANTY** – Seller warrants to Buyer that the Goods shall be free from defects in material and workmanship for the warranty period specified within Seller’s quotation and/or Order Acknowledgement for the Goods (such warranty period shall commence from the date of the original shipment of the Goods); as to services provided by Seller, such services shall be carried out with the same degree of reasonable care and reasonable skill which is standard within the industry. If a warranty is designated as pro-rated by Seller, warranty coverage related to refund or credit shall be pro-rata based on the number of months remaining in the warranty period (e.g., if three months have passed in a six month warranty, remaining coverage is 1/2). Manufacturer’s warranties will be passed through Seller to Buyer if allowable. All warranty claims must be made by written notice to Seller within the specified warranty period. This warranty is contingent upon the following: (i) Buyer establishes that the Goods have been properly installed, maintained and operated within the limits of their intended and normal usage; (ii) upon Seller’s request, Buyer will return to Seller, at Buyer’s expense and subject to Seller’s direction, any defective Goods or parts thereof; and (iii) Seller promptly receives written notice of any defect and such defect is verified upon return of the Goods to Seller at Buyer’s expense or upon inspection by an authorized representative of Seller at Seller’s option. If Buyer, after delivery, modifies, alters, substitutes or changes any of the Goods acquired from Seller, then Seller’s warranty with respect thereto shall be null and void and of no force and effect whatsoever. This warranty does not extend to: (i) defects due to misuse, abuse, neglect, (ii) Goods not used in accordance with normal operating and maintenance instructions, (iii) damage caused by corrosion or erosion, (iv) damage to Goods subject to wear and tear, (v) damage caused by Buyer’s failure to provide a suitable installation or operating environment for the Goods, (vi) damage caused by use of the Goods for purposes other than those for which they were designed, (vii) damage caused by disasters such as fire and other casualties, (viii) damage during shipment, and (ix) damage caused by parts or components not manufactured by Seller. **Goods replaced under the terms of this warranty are covered for the remainder of the original warranty term unless otherwise specified in writing by Seller.** [See also Warranty Replacement Procedure, Section 11, below.]
- 7. EXCLUSIVE REMEDY** – If the conditions of Section 6 have been met, then Seller shall fulfill its warranty obligation by, at its option, (1) repair or replacement of the Goods or parts thereof, or (2) refund of the purchase price paid for such defective Goods.
- 8. DISCLAIMER – THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY, PERFORMANCE AND DESIGN, WRITTEN OR ORAL, EXPRESSED OR IMPLIED; ALL OTHER WARRANTIES, INCLUDING THE**

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WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM THE COURSE OF DEALING OR USAGE OF TRADE, ARE HEREBY EXPRESSLY DISCLAIMED BY SELLER AND ALL GOODS MANUFACTURERS.

9. LIMITATION OF LIABILITY – SELLER SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE RESULTING FROM FAULTY OR INCOMPLETE INFORMATION PROVIDED BY BUYER, INCLUDING, BUT NOT LIMITED TO, INCORRECT PART NUMBERS OR A MIS-DIAGNOSIS. IN NO EVENT SHALL SELLER, ITS AFFILIATES, SUPPLIERS AND SUBCONTRACTORS, BE LIABLE TO BUYER OR TO ANY THIRD-PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTION, DOWNTIME COSTS OR DELAYS, OR ANY PENALTIES, WHETHER ANY SUCH CLAIM IS BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, REGARDLESS OF WHETHER SELLER HAD NOTICE OF SUCH POTENTIAL CLAIMS AND TO THE MAXIMUM EXTENT ALLOWED BY LAW. SELLER'S LIABILITY FOR ANY SUCH CLAIMS OR FOR ANY LOSS OR DAMAGE ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, OR FROM ANY DESIGN, SALE, INSTALLATION, OPERATION OR USE OF THE GOODS, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE PAID TO SELLER BY BUYER FOR THE SPECIFIC GOODS OR PART THEREOF.

10. EXCHANGES

- (a) Goods sold on an "Exchange" basis require that Buyer return a like, repairable item (an "Exchange Part") in order to receive the price quoted. An Exchange Form will be made available to Buyer on an Exchange Sale; Buyer can also obtain an Exchange Form by contacting Seller.
- (b) Exchange Parts **must be sent to the address noted by Seller, must include the Exchange Form specific to the particular order/part**, and must be sent in an appropriate carton or container designed for such shipments, in order to be eligible for the discounted exchange price quoted.
- (c) **Exchange Parts must be received by Seller within fifteen (15) business days from the original date of receipt by Buyer unless a shorter period has been communicated to Buyer by Seller.** If an Exchange Part is not received by Seller within the required time frame, or any Exchange item received by Seller does not otherwise comply with all of the requirements described herein, Seller will invoice Buyer, and Buyer shall be responsible, for additional charges (an "Additional Bill"), in an amount reflecting costs of processing and replacement through the manufacturer.
- (d) An Exchange Part must be "repairable," that is, all of its components are fully intact, it contains an original serial number, if applicable, and it meets common industry acceptance criteria. Unless otherwise approved in writing, an Exchange Part must be like-for-like, and the same revision level as the Good sold by Seller to Buyer. A cloned item, including, but not limited to, a cloned probe, does not qualify as an acceptable Exchange Part and will not be accepted by Seller as an Exchange. If an item received by Seller is determined to be a cloned item, such item will be rejected and Seller will invoice Buyer, and Buyer shall be responsible, for an Additional Bill reflecting costs of processing and replacement through the manufacturer (or, alternatively, the "outright" pricing, if quoted).
- (e) Buyer hereby agrees to pay such reasonable Additional Bills as described herein. In order to make a good faith dispute of an Additional Bill for late exchange, Buyer is required to provide a valid tracking number showing the shipment was received within the allowable timeframe.

11. WARRANTY REPLACEMENT PROCEDURE

- (a) Buyer must obtain **prior approval from Seller, by way of a valid Return Goods Authorization form and number ("RGA")**, before making any warranty returns and/or returning any Goods for warranty replacements; such approval must be sought within the documented warranty period for the particular Good(s), such warranty periods beginning on the date of original shipment by Seller or its supplier. A technical support call may be required before an RGA will be issued.
- (b) Buyer **must ship Goods back prepaid and in an appropriate carton or container** designed for such shipments, and, when applicable, also complete a Tube Service Report (x-ray tubes, CT tubes, etc.).
- (c) Such returns **must be received at the location designated on the RGA Form within ten (10) business days of the date an RGA was first sought from Seller.** Any warranty return received by Seller without the RGA Form, or outside of the ten (10) business day period, will not qualify for a warranty credit.
- (d) Buyer shall cooperate with reasonable requests at the time an RGA is reported, and during handling by Seller, by providing information including, but not limited to, full description of defect, serial number, identifying markings, and, if appropriate, photographs, etc.
- (e) A credit for a warranty return will only be issued when a warranty replacement is ordered from Seller (if available). If Buyer does not order a warranty replacement from Seller then any credit allowed will be at the sole discretion of Seller.
- (f) If a defect is confirmed by Seller or its supplier during evaluation, a credit will be issued fifteen (15) business days of the confirmation, such time being necessary to allow for evaluation and processing (NOTE: certain returns, evaluation and credits may take longer including, but not limited to, credits for glassware due to a longer period of time needed for evaluation and testing).

12. RETURNS & RESTOCKING (NON-WARRANTY)

- (a) Requests to return Goods for a restocking fee (i.e., non-warranty returns) **must be made by Buyer within five (5) business days of the original date of receipt** by Buyer; Buyer must obtain prior approval from Seller for such returns by way of a Return Goods Authorization form and number ("RGA"). Goods returned by Buyer due to no fault of Seller are subject to a minimum twenty-five percent (25%) restocking fee, unless otherwise documented by Seller.
- (b) Goods approved for a return with a restocking fee **must be received at the address noted on the RGA Form within ten (10) business days of original receipt of the Good(s) by Buyer, and must include the RGA Form specific to the particular order/part.** Any returned Goods received by Seller without the RGA Form or outside of the timeframes described herein will not qualify for a credit (the full invoice price will be due from Buyer), and if the Good was sold on an exchange basis then such unauthorized return may be treated as the Exchange Part and applied as the Exchange. Returned Goods must be sent in an appropriate carton or container designed for such shipments in order to be eligible for any credit.

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(c) If all return requirements have been met and the return is accepted, credit will be issued fifteen (15) business days thereafter, such time being necessary to allow for evaluation and processing (NOTE: certain returns and credits may take longer to issue including, but not limited to, credits for glassware due to a longer period of time needed for evaluation and testing).

(d) Goods that are non-returnable for reasons including, but not limited to, supplier return restrictions, will be communicated as such prior to the transaction. Additionally, custom-made orders/Goods are non-returnable. Any Goods sold as non-returnable may not be returned and will receive no credit if returned to Seller. For all orders, each line-item within the order that is both an outright purchase (not Exchange) and is also under \$250 is non-returnable and will not be accepted back for a restock, except for the reason of error on behalf of Seller or parts that are found to have functional defects. Exchange parts under \$250 will be returnable at Seller's sole discretion.

13. MISCELLANEOUS – Buyer must provide a part number or equivalent unique identifying number on all transactions; not providing such number may result in a return being denied. If any claimed reason for a return does not qualify it for credit or cannot be verified by Seller or its supplier, then the full invoice price will be due from Buyer. Seller is not responsible for returning items which Buyer returns to Seller without authorization.

14. FORCE MAJEURE – Seller shall not be liable for any delay in performance or nonperformance which is due to (i) war, fire, flood, acts of God, acts of third parties, acts of terrorism, acts of governmental authority or any agency or commission thereof, accident, breakdown of equipment, or similar or dissimilar causes beyond its reasonable control including, but not limited to, those interfering with production, supply or transportation of the Goods or components, (ii) Seller's ability to obtain, on terms it deems reasonable, labor, parts, equipment or transportation, or (iii) acts or omissions of third-parties including, but not limited to, causes of action resulting from personal injury or property damage.

15. INDEMNIFICATION FOR INFRINGEMENT – If Goods supplied by Seller are used by Buyer to infringe, or such use is alleged to infringe, any patent, copyright, or other intellectual property right of another, or if Goods supplied by Seller pursuant to Buyer's designs or specifications infringe or are alleged to infringe any patent, copyright or other intellectual property right of another, Buyer shall indemnify, defend and hold Seller harmless from and against all damages, liabilities and costs incurred or suffered as a result of such alleged or actual infringement.

16. GENERAL

(a) **Complete Agreement** – This Agreement supersedes all prior agreements and understandings, oral or written, relating to the Goods and the subject matter hereof, and constitutes the entire agreement between the parties related to such Goods and subject matter.

(b) **Amendments; Modifications** – No amendments or modifications of this Agreement (other than updated Terms & Conditions of Sale posted by Seller with a new Effective Date) shall be binding or effective unless in writing and signed by both parties, including an authorized management-level representative of Seller.

(c) **Severability** – If a provision of this Agreement is held to be invalid or unenforceable, the Agreement shall continue in full force and effect and shall be construed as if the invalid or unenforceable provision (or a portion thereof) was omitted.

(d) **Waiver** – No waiver of any breach of the Agreement shall be construed as a waiver of any prior, concurrent, or subsequent breach thereof.

(e) **Assignment** – Neither this Agreement nor any rights or benefits hereunder are assignable by Buyer without the prior written consent of Seller; Any such prohibited assignment shall be null and void.

(f) **Compliance; Attorneys' Fees** – Seller's catalog(s) and/or other electronic or online platform(s) are offered as an as-is service for convenience, and Buyer represents that Buyer has and will comply with all applicable laws and regulations in the purchase, re-sale and/or use of the Goods, and that Buyer has all requisite authority and right to purchase, resell and/or use the Goods. PartsSource is not responsible for purchases outside of Buyer's authority, right to purchase, and/or Buyer's compliance with any applicable laws. In the event that Seller is the prevailing party in any action with respect to this representation, or in collections actions or proceedings between Seller and Buyer, Buyer shall be liable to Seller for all costs, including reasonable attorneys' fees, incurred by Seller with respect to such action, proceeding or arbitration.

(g) **Governing Law** – This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, excluding its conflicts of law provisions. Unless agreed upon otherwise in a writing signed by both parties, this Agreement and the rights and obligations of the parties hereto, shall not be governed by the provisions of the United Nations Convention for the International Sale of Goods (CISG). All causes of action under this Agreement shall expire unless brought in a court of law located in Portage County or Cuyahoga County, Ohio, United States, to which Buyer does hereby consent to personal jurisdiction, within one (1) year of the date of the event giving rise to such claim. Seller shall not be required to perform its obligations if Buyer has defaulted on its obligations or any other contract involving Seller (e.g., failed to pay). Seller shall have all other rights and remedies conferred by law. Buyer agrees that any litigation initiated either by Seller or Buyer shall be venued in a court located in Portage County or Cuyahoga County, Ohio, United States, and waives any argument that personal jurisdiction and/or venue in such forums is not proper or convenient.