

These general terms and conditions apply to all orders placed with Quality Equipment Distributors, Inc. (QED). By placing an order through QED, you express your understanding and agreement that you are bound by these terms and conditions. These terms and conditions shall govern despite additional or inconsistent terms or conditions included in the customer's purchase order or other documents.

**Placing Orders:** Orders may be placed via fax or e-mail at any time. Phone orders are accepted during QED's regular business hours (8 a.m. to 4:30 p.m. local time). QED also offers emergency, after-hours service based upon a customer's needs. All orders will be governed exclusively by the terms and conditions of this agreement. Any conflicting or additional term or condition set forth on any order form or purchase order shall have no force or effect.

**Pricing and Price Changes:**

- A. Prices quoted do not include transportation, insurance, or other shipping charges. Sales, use, or other taxes measured by sales or receipts are not included in the prices shown. Where applicable, such taxes will be billed if a valid exemption certificate is not furnished. Where a valid exemption certificate is furnished, tax will not be billed unless QED determines that the purchase will be used in a taxable manner. Omission of tax should not be construed as a basis for exemption. If used in a taxable manner and no tax was billed by QED, Customer must remit applicable taxes directly to the taxing authorities. Prices are payable in U.S. dollars.
- B. QED may change the prices for products at any time. Unfilled orders that are in existence on the effective date of the price change will be invoiced at the price that was in effect on the date the order was received.

**Transportation and Delivery:** Unless otherwise stated QED will select the method of transportation. Freight charges will be indicated on QED's invoice and are payable as set forth in this agreement. All transportation is deemed to be for the customer's benefit regardless of whether provided or arranged by QED (in which event QED is merely the agent for customer), and all risk of loss and/or damage related to such transportation (including stowage, securing and transit) shall be within the risk of loss transferred to customer.

**Credit Applicant:**

- A. Applicant fully authorizes QED to contact trade references and obtain the applicant's credit information to include credit rating bureaus; and applicant fully authorizes release of bank reference information to QED.
- B. QED may increase or decrease applicant's credit limit without notice.

**Payment Terms:**

- A. Payment terms are established by QED's credit department and payment is due in full within 30 days from the date of invoice, unless negotiated otherwise.
- B. QED will render invoices upon shipment of products to the Customer. Invoices age from the invoice date, not from receipt of goods. Any errors in billing must be reported to QED's credit department prior to the original invoice due date. Claims and/or deductions taken for billing discrepancies after the original invoice due date will not be investigated or honored.
- C. No discount or chargebacks are permitted for advance payment

anticipation, unless negotiated otherwise.

- D. QED may assess a past due payment charge of 2% per month (or the maximum amount as may be allowed by law) on overdue unpaid invoices and may also assess QED's cost of collection, including reasonable attorney fees. Any amounts disputed in good faith are not subject to the past due payment charges.
- E. At QED's sole discretion, customers whose accounts are frequently delinquent may be required to provide payment with order.

**Credit Card Only Accounts:** QED may require the applicant to pay all charges in advance via credit card. Such payments will be authorized for the anticipated total invoice amount prior to release of goods or services. Payment shall be due in full immediately for such accounts.

**Payment Methods:** Invoice payments may be made via check, wire transfer, ACH payment, or may be charged to Visa, MasterCard, Discover or American Express. Any fees incurred for the payment shall be the responsibility of the customer. QED is neither responsible nor liable for any taxes, duties, fees, or other charges that may be associated with international shipments.

**Inspection:** Customer must inspect arriving shipments and report errors or damage in shipment promptly to the carrier. Any errors or damage in shipment must be reported to QED Customer Service within twenty-four (24) hours after receipt of shipment. Requests for adjustments on concealed damage/shortages involving cartons received intact must be reported to QED Customer Service within five (5) business days of receipt of the shipment. Requests for Proof of Delivery (POD) must be made within 30 days of the original date of the invoice. Requests received after 30 days from the original invoice date will not be investigated or honored. If such damage or shortages are reported as required in this Section, QED will, if able, do their best to provide a replacement for the damaged product. If damage or shortages are not reported within the specified time limits, full payment is required as set forth herein, and the Customer bears the risk of loss for such product.

**Product Returns:**

- A. Products may only be returned with QED's authorization and must be in good working condition, with complete identification, shipped freight prepaid, unless otherwise specified by QED, and returned to the Regional Distribution Center from which they were shipped or picked up. The price on the original invoice will be the basis for credit for any authorized return. QED may impose a 25% restocking fee as a condition of accepting a return. Special order or custom-built products may not be returned.
- B. Prior to returning any product, Customer must first obtain a Return Authorization (RA) from QED and include that RA number on the packing slip for returned product. Product must be returned within 10 days after the RA is issued. QED may refuse to accept the return of products for which the Customer has not provided a RA number or for which the RA number was issued more than 10 days prior to the return.
- C. Except where products are defective or damaged in transit, returns must be in clean, unopened, factory packaging, in unmarked condition. In the case of cardboard box packaging, the seal must not be broken.
- D. Returned products must include all items originally packaged with or accompanying products. In all instances, when returning products, original paperwork, with invoice/receipt information must be supplied with return.

- E. QED reserves the right to inspect and require proof of the defect prior to accepting returns under this provision.

**Warranty:** All products are sold to the Customer only with the warranty expressly stated on, packed with, or accompanying the product, or stated in the applicable Product Catalog. SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**Indemnity and Limitation of Liability:**

- A. Customer will defend, indemnify, and hold QED harmless from and against any claims, demands, liabilities, or expenses (including attorneys' fees and costs) for any personal or bodily injury or property damage, to the extent arising out of or resulting from any defect in products. QED will have no obligation with respect to any claim based upon any modification of products or the use of products with products not furnished by QED if the damage would not have occurred but for the modification or use.
- B. Customer will indemnify and hold QED harmless from all claims by any other party resulting from Customer's acts, omissions, misrepresentations, or negligence, regardless of the form of action.
- C. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION WILL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS, IF ANY.

**Force Majeure:** QED will not be liable for any loss, damage or penalty due to delay in delivery of product when such delay is due to the elements, acts of God, acts of civil or military authority, fires or floods, epidemics, quarantine restrictions, war or riots or other circumstances outside the reasonable control of QED. Such a delay shall extend the time for delivery to a date that provided QED with a reasonable period to deliver products after the cause of the delay has been removed.

**Waiver:** Failure by either party to enforce any term or condition of this agreement will not be deemed a waiver of future enforcement of that or any other term or condition of this agreement.

**Severability:** If any term of this agreement is held invalid or unenforceable for any reason, the remainder of the provisions will continue in effect as if this agreement had been executed with the invalid portion eliminated.

**Governing Law:** This agreement will be governed by and construed in accordance with the substantive laws of the State of New York. Any action brought for a claim relative to this agreement shall be brought in a federal or state court of competent jurisdiction located in the State of New York, County of Erie.