

# Terms & Conditions

**TERMS:** All shipments advance payment or COD only. Payable by cash, cashiers check, sight draft, wire transfers or credit card. Net 30 day terms available on approved accounts only.

**CREDIT:** All shipments made under terms of this contract shall be separately invoiced and paid as billed without regard to subsequent deliveries. Failure to pay for any shipment when due shall excuse Seller from making further deliveries. Delay in delivery of any shipment shall not relieve Buyer of its obligation to accept remaining shipments. Seller reserves the right to revoke any credit extended to Buyer by terms of this contract if Buyer fails to pay for any goods previously delivered. If, in the judgement of Seller, there has been a material adverse change in Buyer's financial condition the Seller shall have the right to demand payment before further shipments of any goods. Should Seller at anytime consider that conditions do not warrant shipment on the terms of payment stated in this contract, Seller shall have the right to change the terms of payment and/or require payment as a condition of shipment, notifying Buyer whenever this right is exercised. All payments or credits will be applied to the oldest outstanding balance. Buyer agrees to pay a service charge of 1-1/2% (or charges pursuant to local state regulations) per month on any unpaid balance on past due accounts.

**PRICE ADJUSTMENTS:** Seller may increase any price at anytime without written notice. Buyer shall have the right to cancel this agreement as to any material to which such increase in price applies by giving written notice to Seller to the date when the increase is to be effective.

**TRANSPORTATION CLAIMS:** When you receive your shipment, the attached memorandum copy of the BILL OF LADING/PACKING SLIP indicates that the material shipped has now become your property and is an acknowledgement by the transportation company of the receipt of the material in good condition. Safe delivery of this shipment is now the responsibility of the carrier who acts as your agent. We will be glad to render any assistance necessary to trace and recover lost goods. It is imperative that you examine shipment carefully before signing the freight bill by the carrier's agent (driver). Failure to do this may jeopardize your recovery. Do not refuse shipment as this is your property and refusal causes unnecessary delays, storage charges, and potential restocking fees. Arrange with the carrier to have damaged articles returned to the factory as "DEADHEAD FOR REPAIR OR REPLACEMENT" and notify us promptly. If any concealed damage or shortage is discovered when unpacking leave material and packing as is and notify the agent or carrier within 15 days to inspect, make reference of such on the freight bill, and photograph your damages. Consult the carrier for disposition of damaged articles. Make claim promptly. The transportation company will not consider a claim unless presented within 30 days from date of receipt. Carrier's agent will assist you in preparing the claim. Claims for loss or damage and transportation charges resulting therefrom must not be deducted from our invoice, nor payment of invoices withheld pending adjustment of such claims, since it is the function of the carrier to guarantee safe delivery. Check items received within the invoice. If there is any discrepancy, contact us immediately giving full details. A claim for shortage due to our count in packing must be made within five days from the date shipment is received.

**TRANSPORT EQUIPMENT:** If palletized - Buyer agrees to unload railroad cars, trucks and barges furnished by Seller within the free time specified by tariffs on file with applicable regulatory bodies and to pay any charges resulting from its failure in this regard. Buyer assumes full responsibility for use and condition of cars, trucks, and barges while in Buyers possession. Time allowed is 15 minutes per pallet maximum.

**ASSIGNMENT:** This contract shall be binding upon and inure to the benefit of any successor corporation of Seller, or any assignee of substantially the whole of the Seller's business and the whole of the Buyer's business, but shall not be otherwise assignable by either party without consent of the other.

**SHIPMENT:** Prices are F.O.B. point of shipment. Shipment routing applies. Additional charges will be made for the actual cost difference for specified routing or air shipments. No credits will be allowed in lieu of transportation in case of pick-ups at our warehouses, branches or factory. No transportation charges can be deducted from selling price. HotTubParts.com will not be responsible for shipping incorrect item as ordered by customer.

**RETURN OF MERCHANDISE:** Item may be returned to the company upon authorization obtained from this company in writing, and must be done within 30-days, otherwise the shipment cannot be accepted. No return will be accepted without a valid HotTubParts.com Bill of Sale. Unused resalable equipment accepted for credit shall be subject to a minimum service charge of 20% of the invoice price and all transportation charges prepaid by purchaser. Any costs incurred by the company to put equipment in first class condition will be charged to purchaser. Transportation charges for equipment returned for inspection or testing shall be prepaid by purchaser.

**CANCELLATION OF ORDER:** Any cancelled order is subject to a 5% processing fee. An order can only be cancelled if it has not been shipped and a written request to cancel the order has been received by fax prior to 3:00p.m. EST. Attempts to cancel an order after it has shipped is considered a "refused order" which will be subject to a restocking fee of 20% and all shipping charges.

**INDEMNIFICATION AND HOLD HARMLESS CLAUSE:** Buyer agrees to indemnify and hold harmless the Seller against any claims, action, proceedings, suits, damages or any cost and/or expenses incurred by Seller. This includes, without any limitation, amounts paid pursuant to judgements or settlements and/or as counsel fees in consequence of any claim, action or proceeding or suit against Seller. This includes, without any limitation, any claim against any employee, officer or director of the seller, whether filed before or after final payment hereunder, based upon or arising out of actual alleged infringement or contributory infringement of any patent, trademark or copyright by Seller or actual or alleged unfair competition by Seller, or any other person of party relative to or in connection with the use of the label, design, legend or imprint of label, or any part thereof, supplied, furnished or approved for use by Buyer upon the containers to be supplied by Seller to Buyer hereunder.

**EQUAL OPPORTUNITY EMPLOYMENT PRACTICES:** Seller agrees not to discriminate against any employee or applicant for employment on the basis of race, religion, color, sex or national origin. Seller agrees to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not limited to the following, employment, promotion, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeship. Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination statement.

**FAIR LABOR STANDARDS ACT:** Seller affirms, in connection with the production of the material specified herein that:

"We hereby certify that these goods were produced in compliance with all applicable requirements of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued therefore."

**WARRANTIES:** Seller's warranty for invoiced parts and accessories is 1-Year (parts only) on new items, 90-day (parts only) on refurbished items. In addition to the Seller's warranty, certain parts and accessories carry written warranties provided by their respective manufacturers. Seller will serve as an agent in presenting claims under the manufacturers' warranties but disclaims any liability there under. No warranty shall take effect unless the invoice for the products in question has been paid in full. In the event Seller provides parts to replace an alleged defective part under warranty Buyer will be billed for the cost of a refurbished replacement and credited upon the original part being returned to Seller, said part is found to be defective after testing, and the manufacturer of said part accepting warranty claim.

**WAIVER:** Either party's waiver of any breach or failure to enforce any of the terms or conditions of the contract shall not in any way affect, limit or waive such party's right at any time to enforce strict compliance with every term and condition thereof.

**TAXES:** Any Federal or State Excise or Sales Tax for which we may be liable on any sale will be charged to and paid by the Buyer. Buyer is responsible for furnishing resale certificate.

**ATTORNEY'S FEES AND COSTS:** In the event Buyer fails to pay this invoice when due, Buyer shall be obligated to pay Seller's attorneys fees and costs incurred to collect such obligation whether or not suit is filed.

**JURISDICTION AND VENUE:** The jurisdiction and venue for any litigation arising with respect to the transaction evidenced by this invoice shall be the Circuit Court in and for Pinellas County, Florida and Buyer hereby agrees to such jurisdiction and venue.

**REPRESENTATIONS AND WARRANTIES:** Buyer represents and warrants to seller that purchaser does not have an agreement with any other manufacturer, wholesaler, or distributor of parts that requires that purchaser, purchase parts or spa products exclusively from such manufacturer, wholesaler or distributor or otherwise precludes them from entering into this agreement with seller.