



## Terms and Conditions of Sale

**Permac Industries Inc. (Precision Contract Manufacturer)**

**[www.permacindustries.com](http://www.permacindustries.com) / Email: [sales@permacindustries.com](mailto:sales@permacindustries.com)**

**14401 Ewing Ave. South**

**Burnsville, MN 55306**

**952-894-7231**

**Date: 07/15/2011**

- 1. TERMS OF CONTRACT:** Unless Buyer notifies Seller in writing by certified mail, return receipt requested, within three (3) days after receipt of Seller's order acknowledgement by Buyer, acceptance of the terms and conditions hereof by Buyer shall be so deemed and in the absence of such notification, the sale and shipment by Seller of the goods covered hereby shall be conclusively deemed to subject to the terms and conditions hereof.
- 2. SAMPLES:** If requested, Permac Industries will submit samples for approval when commencing operations upon any order. However, Seller's machines may start production immediately after they are set correctly to Buyer's supplied specifications, and Seller will assume responsibility for having the product inconformity with such specifications while awaiting Buyer's approval. Any changes in original specifications will be made only at Buyer's written direction and expense. If changes are to be made, Seller must be notified at once by telephone, e-mail or fax, but always with written confirmation. If Buyer intends to use the samples to test a new or unproven design, Buyer must always include this as part of the quotation to withhold production for an agreed upon time and cost.
- 3. QUANTITIES:** All quotations are based on Buyer accepting over-run or under-run on each individual item not exceeding 10% of quantities ordered. Where closer control of quantity is required, special arrangements must be made, otherwise Seller's responsibility is only to deliver a quantity of parts within this range.
- 4. BUYER'S MATERIAL:** Quotations covering machining of Buyer's material are made subject to delivery of the amount of material as specified by Seller in 12' lengths, F.O.B. Seller's plant and are subject to changes, if material furnished by Buyer is defective or will not machine with reasonable wear on tools at the speed and feed estimated. Chemical and physical specifications are the sole responsibility of the Buyer and parts manufactured from Buyer's material, which conform to blueprint specifications, shall be accepted by Buyer. Seller does not guarantee to deliver more than 90% of the quantity ordered, as stated in "3. Quantities". Buyer's material proves defective, in total or in part, or of a different character than represented by either Buyer or material produce, all work performed by Seller shall be reimbursed by Buyer.
- 5. TOLERANCES:** All dimensions must be limited by specific tolerance. When not specified, it is understood that the following tolerances will apply:  
Decimal dimensions: All diameters  $.x\pm.030$ ,  $.xx\pm.010$ ,  $.xxx\pm.005$ , lengths plus minus  $.010$ ".  
Fractional Dimensions: Diameters plus or minus  $1/32$ ", lengths plus or minus  $1/64$ " (over 18"  $\pm 1/32$ )  
Intersecting Surfaces: Fillets  $.020$ " Max., corners:  $.020$ " Max Radius or Chamfer Angles: Plus or minus 3 degree, Hex Corner Breaks  $30^\circ$  to  $.010$  below flats  
Drilled holes the greater  $\pm.010$   
Samples are to be considered as denoting fractional dimensions, unless otherwise specified, and dimensions of samples will be considered "mean" dimensions. Where cross drilling, and similar operations are specified, the location will be without relation to other dimensions unless otherwise specified.  
When Buyer purchases to his own specifications, Seller will not be responsible for the design or function of parts.  
Concentricity requirements, if any, must be specified separately from dimensional and will be subject to inspection only at the point where the relation is shown on the blueprint. When a concentricity limitation is specified, it is understood that it means the actual eccentricity allowable between the center lines of the dimensions, which is one-half of dial-reading registration (or TIR). When concentricity is not specified, the work will be manufactured in the most economical manner without particular regard to concentricity.



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**6. THREADS:** Unless otherwise specified, threads will conform to ASME B.I.I Standard Series and will be made to Class 2A and Class 2B limits. When Buyer specifies threads other than sizes in the Coarse Thread Series or Fine Thread Series, or in other classes of tolerance or limits, gages are to be furnished by Buyer or charged for by the Seller.

**EXTERNAL THREADS:** Where threading to the shoulder is specified, if a relief or under-cut of sufficient width is not provided for, it will be understood that the last full thread will not be closer to the shoulder than a distance of two and one-half threads and in the case of fine pitches, closer than 1/16".

**INTERNAL THREADS:** Unless otherwise specified, blind tapped holes may not have a full thread closer from the bottom than three and one-half threads, or in the case of fine pitches, not closer than 5/32".

**7. GAGES:** Where dimensions cannot be gauged with micrometers and require special gages, such gages may be furnished by Buyer or supplied by Seller at an extra charge.

**8. INSPECTION:** Inspection by Seller is made on a percentage basis only. It is assumed 100% inspection is not required. If 100% inspection is required, it is an added cost at Buyer's expense. Seller will normally use a 1.33 CPK minimum capability on critical part features when no other requirements are noted. If there does not need to be any special lot or shipment acceptance criteria, including the designation of sampling plans or statistical data, it must be established by Buyer in writing prior to quotation by Seller. Otherwise, Seller reserves the right to adjust this quotation or delivered part price in consideration for the requirements established by Buyer.

**9. TOOLS, TOOLING CHARGES, FIXTURES, ETC:** Tools, dies, jigs, fixtures, programs, gages and their engineering and design, ARE INTEGRAL PARTS OF Seller's manufacturing processes. Therefore, separate quotations to, or payment by Buyer for these items supplied by Seller, conveys neither ownership nor the right of removal from Seller's factory.

**10. PATENTS:** It is not the intention of Seller to manufacture any product which is an infringement of a patent. Buyer will defend and reimburse Seller for all expenses and damages resulting from claims of infringement related to filling the Buyer's orders. This will apply to orders for individual parts or assemblies.

**11. SHIPMENT TERMS:** F.O.B. Permac Industries, Burnsville, MN, USA

**12. SHIPMENT:** In ordering, Buyer should stated explicitly the method of shipment preferred and, in the absence of shipping directions, Seller will use discretion forwarding by air or rail express, truck or parcel post when packages are small and therefore subject to loss in transit. When considered prudent by the Seller, shipment will be insured at Buyer's expense, unless otherwise specified by Buyer. All goods are sold F.O.B. shipping point, so Buyer assumes freight cost and liability for any loss or damage to goods once the goods have left Seller's premises.

**13. DELIVERIES:** Seller assumes the responsibility of assigning the necessary resources to achieve the delivery scheduled quoted to the Buyer, within the costs quoted to the Buyer. Seller does not assume any responsibility due to default in production or delivery of all or any portion of any contract resulting directly or indirectly from: (A) accident to, or breakdowns of Seller's plant machinery or equipment; shortage of materials; labor disputes; fire; riots; national emergency; delays of suppliers; carriers; or governmental restrictions, prohibitions; or allocations; or (B) any cause beyond the control of Seller. In no event shall Seller be liable for any consequential, special or contingent damages arising out of Seller's default or delay in filling this order.

**14. DELIVERY SCHEDULES:** Unless otherwise agreed between Buyer and Seller, orders are accepted for delivery as fast as manufactured, by complete shipment packed in bulk. If special delivery schedules and lot quantities are required, it may affect price and should be detailed in part of the quotation.

**15. QUOTATIONS AND ACCEPTANCE:** All orders and contracts are subject to acceptance only at Seller's home office. Typographical errors are subject to correction.

**16. CREDIT:** Accounts will be opened only on approved credit. Seller reserves the right to decline delivery except for cash whenever doubt as to Buyer's financial condition develops.



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**17. TAXES:** Taxes imposed by any present or future law of federal, state, country, or municipal authority on the manufacture, sale or use of the articles purchased hereunder and required to be paid by Seller shall be added to the amount to be paid by Buyer. Buyer shall furnish evidence of exemption if applicable. Custom duties or taxes are not included in prices. Buyer shall reimburse Seller for any duties or taxes as Seller may pay or subsequently be assessed.

**18. CANCELLATION:** Orders may be cancelled, or deliveries deferred by Buyer, with written consent of Seller only upon the condition that Buyer assumes immediate liability and makes payment to Seller for all work complete and incomplete, recovering Seller's cost and lost profits. The Seller will recover from Buyer; the unit sales price of completed work, work in process on the basis of the percentage completion, raw material costs; unamortized tooling costs, engineering, handling, overhead charges, and other cancellation charges incurred on the basis of cost to Seller, as well as lost profits. All cancellation charges to be determined at the time of cancellation or deferment.

**19. CLAIMS:** If Buyer claims delivery of material is not as ordered, he must notify Seller within fifteen (15) days of receipt of shipment. If claim is sustained, Seller shall, at its option, repair, replace, credit or complete order. Charges for repair or inspection of parts by Buyer without prior authorization cannot be honored. Seller shall have the option of inspecting the goods on Buyer's premises or of taking back the goods and deciding to replace goods or credit Buyer.

Claims for shortage of goods must be presented within fifteen (15) days from the date of receipt of goods and must state the packing slip number, weight including tare and the method used in arriving at a count of the parts. Any claim for error in weight or shortage, not presented in accordance with this provision, will conclusively be deemed waived. Seller's discretion, request the shipment be returned in its entirety for full evaluation.

Seller will not allow claims on those goods further processed by Buyer resulting in change of dimensions or characteristics from parts as ordered.

**20. WARRANTY:** Seller warrants that goods manufactured by him will conform to the drawings and specifications furnished by Buyer. If within six (6) months, the goods manufactured by Seller are found to have defects in material or workmanship as compared to Buyer's written specifications, and written notice is received by Seller no later than ninety (90) days after date of receipt of such goods by Buyer, Seller will, as its option and without regard to limitations under paragraph "3. Quantities", provide credit, repair, or replace such products determined by Seller to be defective.

Seller shall have the option of inspection of the goods on Buyer's premises or authorizing their return. No goods are to be returned without written consent, nor shall the Seller be liable for any expense, including inspection expenses, incurred by Buyer in order to remedy defects in said goods.

Products manufactured by others, but furnished by Seller, are limited to the original manufacturer's warranty and Seller shall not be liable under any circumstances for defects in such products.

Because goods furnished hereunder are to Buyer's specifications and are used or combined by Buyer with other equipment or components not furnished by Seller, Buyer agrees to indemnify Seller and its officers, directors and employees for all claims, damages, liabilities, cost and expenses, including, without limitation, reasonable attorney's fees, resulting from or arising out of the use or incorporation of said goods in the Buyer's product or any derivative product therefrom.

IT IS EXPRESSLY AGREED THAT THIS WARRANTY IS IN LIEU OF ANY AND ALL OTHER WARRANTIES AND LIABILITIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OF FITNESS FOR ANY PURPOSE AND ANY LIABILITY FOR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF THE PRODUCTS SOLD HEREUNDER. THE FOREGOING STATES SELLER'S ENTIRE AND EXCLUSIVE LIABILITY AND BUYER'S EXCLUSIVE AND SOLE REMEDY, SELLER WILL IN NO EVENT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE OR CONTINGENT DAMAGE OR EXPENSE ARISING DIRECTLY OR INDIRECTLY FROM ANY DEFECT IN ITS GOODS OR FROM THE USE THEREOF, NOR ANY OTHER PERSON AUTHORIZED TO ASSUME FOR SELLER ANY SUCH LIABILITY.



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- 21. LIMITATIONS:** Any controversy or claim arising out of or related to this contract, or the breach thereof, must be commenced within one (1) year after the event underlying the cause of action has occurred.
- 22. ATTORNEYS' FEES:** If any action, suit or proceeding is instituted to remedy, prevent or obtain relief from a default in the performance by any party of such party's obligations under this contract, the prevailing party shall recover all of such prevailing parties' reasonable attorneys' fees and costs incurred in each and every such action, suit or other proceeding, including any and all appeals or petitions therefrom.
- 23. GOVERNING LAW, ARBITRATION:** This contract shall be governed by and construed in accordance with internal laws of the State of Minnesota. The parties agree that all disputes arising out of or related to this contract shall be resolved by final, mandatory, binding arbitration utilizing the American Arbitration Association, in Dakota County, Minnesota, with one (1) arbitrator, under the rules of expedited procedure, with the costs of the proceeding as well as reasonable attorney's fees to be awarded to the party in the matter.
- 24. ENTIRE CONTRACT:** This contract contains the entire understanding to the parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements and understandings, whether written or oral, between them with respect to the subject matter hereof. There are no representations, contracts, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter hereof which are fully expressed herein

Best regards,

**Darlene M Miller**

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**Darlene Miller**  
**President/ CEO**  
Permac Industries Inc.