



PACBRAKE SUPPLIER TERMS & CONDITIONS

Pacbrake Company
19594 96th Avenue
Surrey, B.C., Canada
V4N-4C3

Phone: 604.882.0183
Website: www.pacbrake.com

1. The Agreement

No waiver, alteration or modification of these terms and conditions shall be binding unless in writing and signed by our Purchasing Agent. In case the terms and conditions of any acknowledgment form you send us conflict with these terms and conditions, these terms and conditions shall govern unless our Purchasing Agent has agreed in writing to such changes.

2. Prices

Do not fill this order at prices different from those last quoted or charged without written authorization from us. It is up to you to notify us if prices on a purchase order (PO) are incorrect at which time a new purchase order will be issued by us and sent with correct prices.

3. Delivery

Unless otherwise agreed, delivery of all products ordered hereunder shall be FOB point of shipment. You shall comply with any routing instructions (including the mode of shipment) which we furnish. You shall not be liable for delay in delivery or failure to manufacture or deliver due to causes beyond your reasonable control provided you give us prompt written notice of said delay. If, for any reason, you do not comply with our delivery schedule we, at our option, may either approve a revised delivery schedule or cancel this order with no responsibility for the payment to you of cancellation charges. Products shipped to us in advance of schedule or in excess of quantity ordered may be returned to you at your expense.

4. Packaging

All product shipments must be protected from any damage or contaminants during transport and if product damage occurs or as a result of inadequate packing not compliant with package plan the supplier will be held responsible.

Packaging must also be in compliance with Domestic International Shipping Standards and shall contain a packing slip showing part number, quantity and PO number. Each other package shall have an affixed label with quantity and part number and indication it is partial or the full shipment. Our count and weight are to be accepted as final on any shipments.

Any returnable containers shall be marked "RETURNABLE" and show the name and location as to where it is to be returned. Such containers will be returned at your cost.

We reserve the right to delay shipments by giving you written notice prior to shipment.

5. Supply Validation

All suppliers must have appropriate quality documentation in place to support product and this documentation must be approved by Pacbrake prior to any supply.

It is mandatory that as a Pacbrake supplier there is advance notification and Pacbrake approval for any change to part specification or Tier 2 suppliers.

6A. Foreign Supplier – Invoices

Upon completion of the shipment thereunder, you shall mail/email to us three invoices and our Canada Customs invoices certified in accordance with Canadian Customs requirements. If shipment is made by motor truck, the said customs invoice must accompany the shipment. Bill of lading and other shipping documents must correspond in all details with the certified invoices.

6B. Foreign Supplier – Certificate of Origin

Certificate of Origin must be supplied in accordance to the requirements of Canada Customs. Annual certificates must be current and renewals must be received prior to December 1st for the following year. Any excess duties/taxes levied due to improper/missing documentations will be your responsibility.

6C. Drawback

If you are a Canadian Vendor at our request you shall furnish a completed Drawback Certificate of importation sale or transfer (Canadian government form K32-A).

7. Domestic Supplier – Invoices

Upon completion of the shipment hereunder, you shall mail/email to us the invoice.

8. Part Identifications

Any part being delivered hereunder, which is manufactured to our specifications, shall bear our part number.

9. Inspection at your Plant

When you are supplying products to our specifications we reserve the right to inspect these products at reasonable times during any stage of the manufacturing and also at any reasonable time to inspect your plant facilities.

10. Indemnification by You

You agree to protect, defend, hold harmless and indemnify us against all claims, actions, liabilities, losses, costs, and expenses, including, without limitation, reasonable legal cost and fees, punitive damages, consequential damages and penalties arising out of any actual or alleged death of, or injury to, any person and/or damage to any property, by whosoever suffered, resulting or claimed to result, in whole or in part, from any actual or alleged defect in the products, including actual or alleged improper design, manufacture or assembly of such products, or arising out of any actual or alleged violation by such products, or their manufacture, possession, use or sale, of any law, statute or ordinance or any governmental administrative order, rule or regulation.

11. Extra Charges

No charges of any kind including charges for packaging, boxing, skids, cartage or insurance will be allowed unless specifically agreed to by us in writing.

12. Warranty

You warrant to us that the product to be delivered under this order including any repaired or replacement product will be free from defects in material design, workmanship and title and will be as designated or described in this order or any specification incorporated therein. If it appears prior to the expiration of twelve (12) months from the date of our sale of the products delivered hereunder or of equipment incorporating such product that the product does not meet the warranty specified above upon written notice from us you shall correct any defect (including non-conformance with the specifications) at our option either by repairing any defective product at its then location or by making available according to our instructions at our plant or branch or dealer's place of business a repaired or replacement product. If

you fail within thirty (30) days to make such correction we shall have the right to correct the defect or arrange to have such correction made, either of which shall be at your expense. In any event we shall have the option of returning the defective product to you at your risk, freight charges collect. You shall be liable for any costs incurred by or for us of installing any repaired or replacement products. Our right to return may be based on inspection by reasonable sampling. Any amounts paid by us for returned products shall be promptly repaid by you.

The risk of loss of or injury to defective products shall be at all times on you. In addition we shall be entitled to any and all other rights and remedies which the law provides for breach of warranty and breach of contract.

13. Patterns, Tools and Dies

All patterns, tools and dies or other material furnished by us to you or which are specifically paid for by us and any replacement thereof or anything affixed or attached thereto shall be and remain our personal property. Such property if it can be reasonably done shall be plainly marked or otherwise adequately identified by you as "property of Pacbrake Co., a corporate partnership, Surrey, BC Canada". It shall be safely stored separate and apart from your property. You shall not substitute any property for our property and shall not use such property except in filling our orders. Such property while in your custody or control shall be held at your risk, shall be kept insured by you at your expense in an amount equal to the replacement cost with loss payable to us and shall be subject to removal at our request in which event you shall prepare such property for shipment and shall deliver it to us or our nominee in the same condition as originally received by you, reasonable wear and tear excepted.

14. Patents

Unless the product is made to specifications provided by us, you shall defend at your expense any suit or proceeding brought against us so far as it is based on a claim that any product, or any part thereof, furnished under this order infringes any patent and you shall pay all damages and costs awarded therein against us. In case said product or any part thereof is in such suit held to constitute infringement and the use of said product or part is enjoined you shall at your expense and your option procure for us the right to continue using said product or part, or replace the same with a non-infringing product acceptable to us or modify it so it becomes non-infringing and acceptable to us at your cost.

15. Proprietary Information

In the event that we supply you with any designs, drawings or other material which at the time of delivery are identified as containing proprietary information or trade secrets, you agree not to disclose or use for the benefit of yourself or otherwise, such designs, drawings or other material without our written consent, unless the information contained therein is (a) within public knowledge or (b) in your possession or known to you prior to your first receiving it from us free from any confidentiality obligations or (c) thereafter comes into your possession independently of our disclosure free from any confidentiality obligations. All such designs, drawings, or other material including any copies thereof which you may have made shall be returned to us upon our written request. Any knowledge or information or trade secrets which you disclose to us in connection with this purchase shall not, unless we agree otherwise in writing, be deemed to be confidential or proprietary information and shall be acquired free from any restrictions as part of the consideration for this order.

16. Compliance

You shall comply with all applicable federal, state, provincial and local statutory and regulatory laws in your performance under this order.

17. Changes

We shall have the right to make changes to this order. If such changes affect the delivery schedule or the price, you shall notify us immediately. No price increase shall be allowed unless approved in writing

by us, but production shall not be delayed pending determination of the price increase unless requested in writing by us.

18. Set-Off

We shall be entitled at all times to set off any amount owing at any time from you to us or any of our affiliates whether arising under this order or otherwise against any amount payable at any time by us in connection with this order.

19. Termination

(a) At our option, we may terminate all or part of the work under this PO. In such case we shall have no liability with respect to goods or components thereof procured or work done or goods partially fabricated after such termination. In no event shall we be liable for prospective or anticipated profits by reason of such termination. *(b)* We require strict performance of each and every term and condition of this PO and if goods or services are rejected by us as non-conforming you shall have no right to remedy such default. We may, by written notice to you, cancel for default this PO in whole or from time to time in part *(i)* if you fail to deliver goods or to perform the services within the time specified in this PO *(ii)* if you fail to deliver goods which conform to the contractual requirements or to perform any of the provisions of this PO, or so fail to make progress as to endanger performance of this PO in accordance with its terms or *(iii)* if you become insolvent or commit an act of bankruptcy or if reorganization proceedings are commenced by or against you. *(c)* If this PO is cancelled for default, we shall have any and all rights and remedies which the law provides for failure to perform in accordance with contract requirements including the right to charge you with the costs incurred by us in fabricating or procuring from other sources goods or services which you fail to furnish us in accordance with this PO to the extent that such costs shall exceed the unpaid purchase price set forth herein.

20. Assignment

Your rights and obligations under this contract cannot be assigned without our written consent.

21. Applicable Law

This agreement shall be construed according to the laws of the Province of British Columbia, Canada. You consent to the venue and jurisdictions of a court located in such Province and waive any claim of forum inconvenience and a trial by jury.