

XACT SPEC INDUSTRIES LLC
TERMS OF SALE
(For Services)

These Terms of Sale shall govern all sales of, quotation for, or other provision of, manufacturing, logistics, consulting and/or management services (“Services”) by XACT SPEC INDUSTRIES LLC (“XSI”) to any purchaser of or other person receiving any Services (“Buyer”). Services are deemed to include any necessary or incidental goods supplied by XSI in connection with the Services. Any of Buyer’s terms, in addition to or different from those contained herein, whether added to this form or contained in any purchase order, acknowledgment or confirmation prepared by Buyer, are hereby objected to and shall be of no effect. Buyer’s ordering or accepting any Services or making payment for any Services shall be deemed acceptance of these Terms of Sale.

1. Any purchase order from Buyer not made in response to and in strict compliance with a quotation from XSI is subject to acceptance by XSI in its sole discretion.
2. Orders accepted by XSI cannot be cancelled except in writing and upon terms solely acceptable to XSI.
3. Prices are based both on the Services requested and the quality, quantity, and type of material or equipment on which Services will be performed (“Material”) as such Material was originally specified by Buyer. Changes in such specifications or deliveries will be subject to change in price.
4. Buyer is responsible for all additional expenses resulting from any variances in supplied Material from the specifications used by XSI in preparation of its original quotation. Buyer is also responsible for all additional expenses due to inconsistency in its Material such as variation in grain structure, stresses, strains and/or variances in hardness causing warpage and distortion, which may affect machining and/or drilling. Buyer shall hold XSI harmless from any liability resulting from resulting from delays in delivery due to any of the foregoing variances in Material. The above provisions shall also apply to all Material that Buyer requests XSI to supply in accordance with Buyer specifications.
5. XSI assumes no responsibility for the suitability of the Materials specified by the Buyer unless set forth in writing by an XSI authorized representative.
6. All quotations are based upon an initial set up and an uninterrupted supply to XSI of Buyer furnished Material during the course of performance of Services. In the event that the supply of Material is interrupted, XSI reserves the right to charge for any additional set up expenses incurred due to such interruptions.
7. Unless Buyer supplies specific tooling or proprietary intellectual property for use by XSI in performing the Services, all tooling and intellectual property used by XSI shall be and remain its property. XSI will return any remaining Buyer supplied tooling and intellectual property at the completion of the Services without warranty of any kind as to its condition.

8. To the extent that, due to equipment malfunction or other ordinary course machine shop occurrences, during performance of Services any Material is damaged or otherwise becomes unsuitable for processing, XSI will not be responsible for replacement cost of such Material but will complete performance of Services on other Buyer supplied Material without charge for any additional time required to restart the Services. Buyer will remain obligated to pay originally quoted costs.
9. All payments shall be in legal tender of the United States of America. In the event Buyer fails to make payment in full within the time period set forth on any invoice, or within the time period expressly agreed upon in writing by the parties, such failure to pay on time constitutes a material breach of contract by Buyer and permits XSI to suspend further work and/or delivery under any contract between Buyer and XSI. If XSI has to take legal action or file an arbitration to collect any amounts due based hereunder, Buyer shall pay all court costs including reasonable attorneys' fees incurred by XSI in bringing and prosecuting such action. A finance charge of the lesser of 1-1/2% per month, 18% Annual Percentage Rate, or the highest rate permitted by law, shall be charged on all amounts unpaid 30 days after the date of invoice.
10. All prices are quoted exclusive of taxes. All taxes applicable to any order placed hereunder, including, but not limited to, Ohio or other applicable sales or use taxes, are additional and to the extent legally permissible, shall be paid by Buyer.
11. All prices are f.o.b. XSI facility unless otherwise indicated in the quotation. All freight and shipping costs shall be the responsibility of Buyer.
12. XSI shall not be deemed to be in default of any of its obligations hereunder due to any delays caused by acts of God, fires, floods, work stoppages or slowdowns, equipment failure, accidents, allocations, governmental regulations, shortages of transport, equipment, materials or labor, or any other cause beyond its reasonable control.
13. It is Buyer's obligation to inspect all items delivered by XSI upon Buyer's receipt. All claims of any nature shall be barred unless notice thereof is given to XSI, in writing within ten (10) days after receipt of such items, and such items relating to such claims are held intact and properly protected, unless instructed otherwise by XSI, pending inspection by XSI's authorized inspector. Unless written authorization is given by XSI, XSI assume no responsibility for work done by others or for expenses incurred by others in connection with repair or replacement of work described in the quotation. The performance of any unauthorized repair will be regarded as Buyer acceptance of the Services performed. Buyer shall hold XSI harmless and indemnify it against all claims of every kind and nature, including attorneys' fees, arising from Buyer's use, sale or distributing of any items on which XSI has performed Services. Any further processing by Buyer on any Material received from XSI will be conclusively presumed to be a complete acceptance of the Services. **Failure to notify XSI of any non-conformance within 10 days of receipt of any goods shall constitute acceptance of such items and waiver of all claims with respect to any non-conformance.**
14. Upon delivery to a common carrier or to Buyer or Buyer's agents of any Material upon completion of Services, risk of loss or damage to such Material shall pass to Buyer, and XSI shall have no further liability therefor.

15. XSI warrants that any Services will comply with the written specifications set forth in the relevant quotation or accepted purchase order. Material upon which Services have been performed are subject to the customary tolerance and quality variations and deviations and variations consistent with practical testing and inspection methods. **THE AFORESAID IS THE ONLY WARRANTY GIVEN BY XSI. THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES GIVEN BY XSI, EXPRESS, IMPLIED OR STATUTORY. THERE ARE NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE THAT APPLY TO ANY SERVICES PERFORMED OR MATERIALS DELIVERED TO BUYER HEREUNDER, WHICH WARRANTIES ARE HEREBY SPECIFICALLY EXCLUDED.**
16. **Buyer's exclusive remedies with respect to any services furnished by hereunder that are found to be defective or otherwise not in conformity with any warranty shall be limited to, at XSI's sole option (a) XSI repairing any defect or non-conformity, (b) XSI performing new services on additional material supplied by Buyer at its sole expense, (c) a credit to Buyer's account for so much of the purchase price as relates to any defective or non-conforming Services or (d) a refund to Buyer of the purchase price for any defective or non-conforming Services.**
17. **XSI's liability with respect to any breach hereunder or relating to any goods sold pursuant hereto, shall be limited to the amount paid by buyer for any defective or non-conforming services. Under no circumstances shall XSI be liable for any special, punitive, incidental or consequential damages or for any claims for lost profits even if XSI has been informed that such damages or losses could occur.** In no event may any claim by Buyer arising from or relating to any agreement, order or sale of any goods or services referenced herein be brought more than one year after the date of delivery or the date such claim arose, whichever shall be earlier.
18. These Terms of Sale and the document to which attached constitutes the entire and only agreement between the parties hereto and any negotiations, representations, affirmations of fact, and courses of prior dealings, promises or conditions in connection therewith, if not expressly incorporated herein, shall not be binding upon XSI. No waiver, alteration or modification of any of the provisions hereof shall be binding unless in writing and signed by a specifically authorized representative of XSI. XSI may correct typographical or arithmetic errors.

XSI's waiver of, or failure to enforce compliance with the terms hereof shall not constitute a waiver of XSI's rights to insist upon strict compliance with the terms of any order thereafter.
19. All agreements between Buyer and XSI shall be deemed made in the State of Ohio. Those Terms of Sale and any dispute arising from the goods or services referenced herein shall be governed by any enforced in accordance with the laws of the State of Ohio. It is specifically agreed that the United Nations Convention on Contracts for the International Sale of Goods shall not apply, including any adopting laws.
20. Any dispute arising between the parties hereto shall be resolved by arbitration in Cleveland, Ohio, in accordance with the Rules of the American Arbitration Association, and the award of the arbitrator(s) shall be final and binding upon the parties. In the event

the demand for arbitration is filed pursuant hereto, the parties shall have the same rights to discovery under the Ohio Rules of Civil Procedure as if the dispute had been filed as an original action in an Ohio Court of original jurisdiction and shall be authorized to enforce said rights as if the entire dispute were pending before said Court. Notwithstanding the foregoing, XSI may institute an action for collection of any amount due from Buyer hereunder in any court of competent jurisdiction. Buyer hereby consents to the personal jurisdiction and venue of the federal and state courts located in Cuyahoga or Geauga County, Ohio.

21. XSI fully complies with all U.S. export control regulations, including the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR). XSI requires Buyer to use reasonable efforts to cooperate with, and assist, XSI in the correct identifications and classification of items provided by Buyer or manufactured to Buyer's requirements, design and/or specifications, which may be subject to U.S. export control regulations. If Buyer cannot, or will not, make reasonable efforts to assist XSI in the correct identification or classification of items relative to U.S. export control regulations Buyer shall indemnify and hold harmless XSI from any resulting violation and/or penalties which may arise from the inaccurate classification of items and any resulting export of such items. The term "item" (as described above) includes goods, or hardware, technical data, software, or technology that is subject to any U.S. export regulation. "Item" does not solely refer to the physical item itself.
22. XSI will not export restricted items without documented proof of a license or agreement from the appropriate U.S. governmental authority, and will follow all terms, conditions, and provisions on such license or agreement as a conditions of exporting and engaging in business with its customers.
23. Buyer shall maintain at all times during XSI's performance of the Services commercial general liability insurance in an amount sufficient to cover the Services provided under these Terms of Sale. Upon request by XSI, Buyer will provide a certificate of insurance evidencing this coverage. An Additional Insured endorsement shall be provided to XSI naming XSI as additional insured under Buyer's commercial general liability insurance policy. Buyer hereby grants XSI a waiver of any right to subrogation which any insurer of Buyer might otherwise acquire against XSI by virtue of the payment of any loss under Buyer's insurance policies. This provision shall apply regardless of whether Buyer has received a waiver of subrogation from the insurer.
24. XSI shall not be liable in any way to Buyer or third parties for delays caused by lack of or delay in obtaining any appropriate licenses.