



Cascadia Can Company

19649 NE San Rafael St.

Portland, OR 97230

TERMS AND CONDITIONS

- Quotations.** All quotations for the goods (the "Goods") set forth on this Estimate or Proforma Invoice Form are subject to confirmation prior to acceptance by Seller of any order made in response hereto. The quotations set forth herein automatically expire thirty (30) days from the date of this Estimate or Proforma Invoice Form and are subject to termination by notice within that period.
- Payment Terms.** The amount of any invoice issued in connection with any purchase of Goods resulting from this Estimate or Proforma Invoice Form is payable in full within the payment terms listed on such Invoice. If in Seller's opinion the financial condition of the Buyer at any time does not justify continuance of production or shipment on the foregoing terms of payment, Seller may require full or partial payment in advance.
- Delivery.** Unless otherwise specified on the front of this Estimate or Proforma Invoice Form, all costs of delivery shall be charged separately to the Buyer and will be F.O.B. the originating warehouse address listed on this Estimate or Proforma Invoice Form. Method and route of shipment are at the Seller's discretion, unless the Buyer supplies explicit instructions which are acceptable to Seller. All shipments are insured at the Buyer's expense and made at the Buyer's risk.
- Taxes.** The amount of all present and future sales, revenue, excise, and other taxes applicable to the Goods listed hereon shall be added to the purchase price and shall be paid by the Buyer, or in lieu thereof the Buyer shall provide the Seller with a tax exemption certificate acceptable to the applicable taxing authorities.
- Quantity Variations.** Any shortage or surplus, charged pro rata, in the Goods covered by Buyer's purchase order in response to this Estimate or Proforma Invoice Form, which does not exceed ten percent (10%) (rounded to the nearest full pallet quantity) of the quantity covered by such purchase order, will be considered compliance in full with the terms of such purchase order.
- Cancellation.** An order by Buyer in response to the Estimate or Proforma Invoice Form once placed with and accepted by Seller cannot be cancelled without Seller's consent (which may be withheld in Seller's sole discretion) and then only upon terms that will indemnify Seller against loss.
- Liability.** Seller shall not be liable for loss or damage of any kind resulting from delay or inability to deliver on account of causes beyond its control, including but not limited to acts of God, acts of Buyer, acts of military or civil authorities, fires, strikes, flood, epidemic, war, riot, delays in transportation or car shortages, or inability to obtain necessary labor, materials, components or services through Seller's usual and regular sources at usual and regular prices.
- No Warranties; Responsibility of Buyer.** NO EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES WHETHER OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE, OR OTHERWISE (EXCEPT AS TO TITLE), SHALL APPLY TO ANY PRODUCTS SOLD BY SELLER AND NO WAIVER, ALTERATION OR MODIFICATION OF THE FOREGOING CONDITIONS SHALL BE VALID UNLESS MADE IN WRITING AND SIGNED BY AN EXECUTIVE OFFICER OF SELLER.
NOTE: IT IS THE BUYER'S RESPONSIBILITY TO DETERMINE THE SUITABILITY OF THE GOODS FOR THE BUYER'S PRODUCT, AND BUYER AGREES THAT IT IS NOT RELYING ON SELLER IN MAKING SUCH DETERMINATION EVEN IF SELLER PROVIDED ASSISTANCE, GUIDANCE OR DESIGN. BUYER DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE BUYER ASSUMES ALL RISK THAT THE GOODS PRODUCTS PURCHASED WILL BE SUITABLE FOR THEIR INTENDED USE. BUYER WILL NOT ORDER OR USE ANY GOODS OR SERVICES UNLESS IT IS SATISFIED THAT THE GOODS AND SERVICES ARE SUITABLE FOR BUYER'S USE AND CONFORM TO ALL OF ITS REQUIREMENTS. BUYER AGREES TO STORE AND USE ALL GOODS AND SERVICES IN A SAFE MANNER. SELLER IS CAUTIONING BUYER THAT NOT ALL PRODUCTS ARE COMPATIBLE WITH PLASTIC, GLASS, METAL OR THE OTHER GOODS AND BUYER AGREES NOT TO USE ANY GOODS WITH AN ABRASIVE, CAUSTIC OR ACID SOLUTIONS OR ANY OTHER SUBSTANCE WHICH MAY CAUSE INJURY TO PERSONS OR PROPERTY.
- In the event that these goods, or any part of the same, are not paid on or before the due date listed on the Invoice, Seller shall be entitled, in addition to collection of the price of the goods set forth herein, late charges equal to one and one-half percent (1-1/2%) of the declining unpaid balance of said charges, and each of the same, and all of the same. Said charges shall accrue thirty (30) days from the due date of said invoice herein. Payment or accrual of service

TERMS AND CONDITIONS (Continued)

charges does not defer payment of any bill, extend credit terms, or extend any payment of invoice beyond its due date hereof.

10. **Indemnification by Buyer.** Buyer shall indemnify, defend and save harmless Seller from and against any claims, loss, damages, liability, costs or expenses (including reasonable attorneys' fees) that arise from either (a) the modification, alteration or decoration in any way of any Goods purchased as a result of this Estimate or Proforma Invoice Form, and (b) from the improper handling or storage of the Goods by the Buyer.
11. **Acceptance.** Acceptance of the offer reflected on this Estimate or Proforma Invoice Form by Buyer is expressly limited to the exact terms contained herein and any attempt by Buyer to alter or omit any of such terms shall be deemed a rejection and a counteroffer. If this Estimate or Proforma Invoice Form is accepted and the Buyer's order form is used for the purpose, it is expressly understood and agreed that the terms and conditions herein set forth shall prevail insofar as the same may in any way conflict with the terms and conditions set forth in such purchase order form of Buyer, and the issuance of such purchase order by the Buyer shall be deemed to evidence the consent of the Buyer to the foregoing.
12. **Status of Pallets.** Pallets supplied will be billed to Buyer. Pallets are non-returnable unless the Estimate or Proforma Invoice specifies that the pallets are returnable, in which case pallets are returnable at the Buyer's expense. If returnable pallets that are memo billed are not returned within 60 days, Purchase will be billed for the cost of the pallet. Pallet costs are subject to adjustment on 30 days notice.
13. **Materials.**
 - (a) While Seller and the manufacturer of Goods covered by this Estimate or Proforma Invoice Form will make every endeavor to supply material in accordance with the samples submitted or quoted for, there is no guaranty that the materials will be identical.
 - (b) If sample containers are submitted by the Seller to the Buyer for approval, the Buyer should confirm dimensions by the actual packing thereof prior to the approval by the Buyer.
14. **Buyer's Property.** Buyer's property when supplied to Seller or the manufacturer of Goods covered by the Estimate or Proforma Invoice Form will be held or worked on at Buyer's risk. While every care will be taken to secure the best results where materials are supplied by Buyer, the Seller assumes no responsibility for imperfect work caused by defects in or unsuitability of materials so supplied by Buyer.
15. **Assistance and Advice.** Upon request, Seller at its discretion will furnish as an accommodation to Buyer such technical advice or assistance as is available in reference to the Goods. Seller assumes no obligation or liability for the advice or assistance given or results obtained, all such advice or assistance being given and accepted at Buyer's risk.
16. **Severability.** If any term or provision of this Agreement shall to any extent be invalid or unenforceable, the remainder of this agreement shall not be affected thereby, and each term or provision of this agreement shall be valid and enforceable to the fullest extent permitted by law.
17. **Governing Law.** All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Oregon without giving effect to any choice or conflict of law provision or rule (whether of the State of Oregon or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Oregon.
18. **Entire Agreement.** This Agreement constitutes the entire contract between Buyer and Seller relating to the Goods or services identified herein. No modifications hereof shall be binding upon Seller unless in writing and signed by Seller's duly authorized representative and no modification shall be effected by Seller's acknowledgement or acceptance of Buyer's purchase order forms containing different provisions. Trade usage shall neither be applicable nor relevant to this Agreement, nor be used in any manner whatsoever to explain, qualify or supplement any of the provisions hereof. No waiver by either party of default shall be deemed a waiver of any subsequent default. All waivers shall be in writing to be effective. The terms set forth herein shall apply to all purchases by Buyer, and any terms set forth in Buyer's Purchase Order that are in addition to or not identical to the terms set forth herein will not become part of this Agreement.