

Woodman Agitator, Inc.

1404 LEAR INDUSTRIAL PARKWAY • AVON, OHIO 44011
PHONE: 440-937-9865 • FAX: 440-937-9867
E-MAIL: SALES@WOODMANAGITATOR.COM
WWW.WOODMANAGITATOR.COM
MANUFACTURERS OF PAINT AGITATORS AND STEEL DRUM PARTS

STANDARD TERMS AND CONDITIONS OF SALE

These terms and conditions (“Terms”) apply to any purchase or request (“Order”) for material, tools, or equipment (“Products”) by any person or entity (“Buyer”) to Woodman Agitator, Inc. (“Woodman”). Buyer and Woodman may herein be referred to individually as “Party” and collectively as “Parties.”

1. **Scope of Agreement.** These Terms, along with any price list, quotation, proposal, or invoice from Woodman related to the sale of the Products, and all documents incorporated by reference therein, constitute the complete agreement governing the sale of Products by Woodman to Buyer. By accepting any Products from Woodman, Buyer expressly manifests its assent to these Terms and agrees and acknowledges that if any provision of Buyer’s Order or other document or communication from Buyer purports to modify or is inconsistent with any provision of these Terms, regardless of the order or timing of the exchange of such document or communication, these Terms shall prevail.
2. **Orders; Changes; Cancellation.**
 - (a) Purchase Orders. Orders for Products must contain complete and accurate information including, without limitation: detailed description of the Products, quantity of Products needed, and invoicing and delivery requirements. Woodman is not responsible for fulfilling Orders that contain incomplete or inaccurate information. Woodman reserves the right in its sole discretion to refuse Orders.
 - (b) Changes. Buyer may request changes to an Order by providing written notice to Woodman prior to the time Woodman commences production of the Products. All requested changes are subject to Woodman’s approval and Buyer’s acceptance of any resulting changes to the price and delivery dates.
 - (c) Cancellation of Orders. Buyer may not cancel an Order once it has been placed. If Buyer cancels any Order, Buyer shall pay to Woodman all reasonable costs and expenses incurred by Woodman resulting from such cancellation, including but not limited to all costs associated with the return, restocking, and repackaging of the Products, and a reasonable profit thereon.
 - (d) Returns. No returns will be accepted without Woodman’s prior written consent in accordance with Woodman’s then-current procedures. Returned Products must be (i) current and unused, (ii) undamaged, (iii) free of all liens, encumbrances, or other claims, and (iv) shipped, transportation prepaid, to Woodman’s specified location. Woodman reserves the right to inspect Products prior to authorizing return and to refuse to accept returns. Unless the return is the result of non-conformity of the Products as set forth in Section 5, if Buyer returns any Products, Buyer will be solely responsible for return transportation costs and any expenses reasonably incurred by Woodman to repackage or make ready for resale any returned Products.
3. **Shipping and Delivery.**

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- (a) Partial Shipments. Woodman reserves the right to make partial shipments and to postpone delivery until Buyer has provided all requested shipping instructions.
- (b) Delays. If the shipment of Products is delayed by Buyer, Buyer will reimburse Woodman for any resulting costs and expenses.
- (c) Shipping Charges. Buyer is responsible for all shipping charges.
- (d) Shipping Terms. Woodman reserves the right to determine the appropriate shipping terms. Unless otherwise specified by Woodman, shipping will be FOB Seller's location, Prepaid/Add.
- (e) Damage during Shipping. Any claims for shortages or damages suffered in transit are the responsibility of Buyer and shall be submitted by Buyer directly to the carrier. Shortages or damages must be identified and signed for at the time of delivery.
- (f) Title and Risk of Loss. Buyer assumes title and risk of loss to the Products upon Woodman's shipment thereof.

4. Pricing; Payment Terms.

- (a) Pricing. Any pricing quoted by Woodman for the Products shall remain in effect for thirty (30) days after the date of the quotation. If Buyer does not provide an unconditional authorization for shipment of the Products within such period, Woodman may change such pricing. All prices are exclusive of taxes, transportation, and insurance. Any current or future taxes or governmental charges (or increase in same) affecting the Products shall be added to the price or billed to Buyer separately, at Woodman's election.
- (b) Payment Terms. Unless otherwise agreed to by Woodman, Buyer shall pay Woodman's invoice in U.S. currency within thirty (30) days from the date of the invoice. If Buyer fails to make payment when due, Woodman shall have the right, among others, to terminate the Order and/or to suspend performance under this or any other agreements with Buyer. Buyer shall be liable for all expenses, including reasonable attorneys' fees, incurred by Woodman in the collection of past due amounts. All invoices not paid when due shall bear interest, at a rate to be determined by Woodman, which shall not exceed the maximum rate permitted by applicable law, from the date on which it is due until paid. Should Buyer's financial responsibility become unsatisfactory to Woodman, Woodman may require cash payments or satisfactory security for future deliveries of Products. If such cash payment or security is not provided, Woodman may discontinue deliveries. Buyer hereby grants Woodman a first-lien security interest in all Products sold to Buyer by Woodman until all such Products are fully paid for, and Buyer will execute and deliver to Woodman such instruments as Woodman requests to perfect such security interest.

5. Design; Manufacture; Warranty.

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- (a) Specially-Designed Products. Buyer shall be solely responsible for the accuracy and completeness of any specifications, drawings, designs, or technical data submitted to Woodman in connection with any customized or specially-designed Products.
 - (b) Design or Development. The performance by Woodman of any design or development work for any Products shall be covered by a separate written agreement between Woodman and Buyer, with payment to Woodman for such work as the Parties shall agree.
 - (c) Inspection. Buyer shall have thirty (30) days from the date of delivery of Products to inspect the Products and provide Woodman with written notice of any non-conformity. Buyer shall be deemed to have accepted, and shall have waived its right to reject, any Product that it has not rejected or refused within thirty (30) days of delivery of such Product. Buyer may return non-conforming Products to Woodman according to Woodman's instructions and at Woodman's expense, subject to Woodman's right to inspect the Products prior to authorizing return.
 - (d) Limited Warranty. Woodman warrants that the Products will be free from defects arising from normal usage, will conform to Buyer's specifications (if any), and will be free from defects not inherent in the quality required by Buyer's specifications. Upon written notice from Buyer of any defective Products, Woodman will, at its option, repair or replace the defective Products or refund to Buyer the amount paid for such defective Products. THE WARRANTIES SET FORTH HEREIN ARE THE ONLY WARRANTIES GIVEN BY WOODMAN WITH RESPECT TO THE PRODUCTS AND EXCLUDE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHETHER OR NOT THE PURPOSE OR USE HAS BEEN DISCLOSED TO WOODMAN AND WHETHER OR NOT WOODMAN'S PRODUCTS ARE SPECIFICALLY DESIGNED AND/OR MANUFACTURED BY WOODMAN FOR BUYER'S USE OR PURPOSE. To the extent that actual operating or other conditions for the Products differ from those represented by Buyer, any warranties affected by such conditions shall be null and void. Woodman's warranties are conditioned upon Buyer's proper use and maintenance of the Products according to Woodman's instructions and do not apply to failures of performance due to normal wear and tear, integration with any other equipment, tools, materials, or applications, or any cause other than ordinary and intended use.
6. **Force Majeure**. Woodman will not be liable for delays in performance or for non-performance due to acts of God, war, terrorism, epidemic, fire, flood, weather, sabotage, strikes, labor disputes, civil disturbances, or riots; acts of Buyer; governmental requests, orders or actions; unavailability of parts or materials; unavailability of or delays in transportation; default of suppliers; or any other circumstances beyond Woodman's reasonable control and without Woodman's negligence. Woodman may cancel or suspend performance, in whole or in part, for an appropriate period of time in the event of any of the foregoing.

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7. Indemnity.

- (a) Buyer shall indemnify, defend, and hold harmless Woodman and its directors, officers, employees, agents, representatives, and shareholders from and against any and all claims, liabilities, fines, penalties, losses, damages, costs, and expenses of whatsoever nature, including reasonable attorneys' fees and court costs ("Losses") resulting from or relating to personal injury (including death) or damage to tangible property to the extent arising out of or caused by Buyer's use, modification, maintenance, or resale of the Products or by the negligence or intentional misconduct of Buyer, its employees, agents, distributors, subcontractors, or customers.
- (b) Woodman shall indemnify, defend, and hold harmless Buyer and its directors, officers, and employees from and against any and all Losses resulting from personal injury (including death) or damage to tangible property to the extent arising out of or caused by the negligence or intentional misconduct of Woodman, its agents, distributors, or employees.

8. Limitation of Liability.

WOODMAN DISCLAIMS ANY AND ALL LIABILITY FOR PERSONAL INJURY OR DAMAGE TO TANGIBLE PROPERTY (INCLUDING WITHOUT LIMITATION CONTAMINATION OR DEGRADATION OF MATERIALS) ARISING OUT OF OR RESULTING FROM BUYER'S FAILURE TO PROPERLY CLEAN AND MAINTAIN THE PRODUCTS, TO TEST THIS PRODUCTS FOR COMPATIBILITY WITH BUYER'S MATERIALS PRIOR TO USE, OR FROM BUYER'S ABUSE, ALTERATION, MISUSE, OR REPAIR OF THE PRODUCTS WITHOUT WOODMAN'S EXPRESS WRITTEN APPROVAL. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, INFRINGEMENT, OR OTHERWISE), SHALL WOODMAN BE LIABLE TO BUYER FOR ANY DAMAGES IN AN AMOUNT THAT EXCEEDS THE PRICE PAID BY BUYER FOR THE PRODUCTS GIVING RISE TO SUCH DAMAGES. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS.

9. Confidential Information.

Each of the Parties hereto agrees to hold in confidence any proprietary technical or business information observed at the other Party's facility or otherwise received from the other Party.

10. Intellectual Property.

"Intellectual Property" means any patents, copyrights, trade secrets, trademarks, trade names, trade dress, service marks, know-how, inventions, and other intellectual property. Except as otherwise agreed, Woodman shall own all right, title, and interest in and to any Intellectual Property contained, embodied, or reflected in the Products. Each Party shall own and retain all right, title, and interest in all Intellectual Property that such Party owned on or before the placement of an Order.

11. Miscellaneous.

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- (c) Assignment. These Terms and any Order associated with these Terms are not assignable by either Party without the written consent of the other Party.
- (d) Applicable Law. These Terms will be governed by and construed in accordance with the laws of the State of Ohio, without regard to its conflict of laws principles.
- (e) Modifications. No change, modification, rescission, discharge, or abandonment of these Terms shall be binding upon Woodman unless made in writing and signed on its behalf by a duly authorized representative of Woodman. No conditions, usage of trade, course of dealing, understanding, or agreement purporting to modify, explain, or supplement these Terms shall be binding unless made in writing and signed by the Party to be bound.
- (f) Compliance with Laws. The Parties shall comply with all applicable laws, rules, ordinances, and regulations in connection with their sale, purchase, and use of the Products. Buyer's acceptance, transfer, or release of Products must comply with all applicable import, export, and supply chain security laws, regulations, orders, and requirements.
- (g) Severability. If any provision of these Terms is held to be invalid or unenforceable by any court or governmental entity of competent jurisdiction, then such provision will be modified to reflect the Parties' intention, and all remaining provisions shall remain in full force and effect.