

INGUN USA, Inc.
Terms and Conditions

1. THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ IT CAREFULLY.

BY PLACING AN ORDER FOR PRODUCTS OR SERVICES FROM INGUN USA, INC. AND/OR THROUGH INGUN.COM, YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS.

YOU MAY NOT ORDER OR OBTAIN PRODUCTS OR SERVICES FROM INGUN.COM IF YOU (A) DO NOT AGREE TO THESE TERMS, (B) ARE NOT THE OLDER OF (i) AT LEAST 18 YEARS OF AGE OR (ii) LEGAL AGE TO FORM A BINDING CONTRACT WITH INGUN USA, INC., OR (C) ARE PROHIBITED FROM ACCESSING OR USING INGUN.COM OR ANY OF INGUN.COM's CONTENTS, GOODS OR SERVICES BY APPLICABLE LAW.

These terms and conditions (these **"Terms"**) apply to the purchase and sale of products and services from INGUN USA, INC. and/or through INGUN.COM (the **"Site"**). These Terms are subject to change by INGUN USA, INC. (referred to as **"INGUN USA"**, **"us"**, **"we"**, or **"our"** as the context may require) without prior written notice at any time, in our sole discretion. The latest version of these Terms will be posted on this Site, and you should review these Terms before purchasing any product or services that are available through the Site. These Terms are intended by the parties to be the final expression of their agreement with respect to the terms of their transaction. Submission of a purchase order on the Site by Purchaser (referred to as **"Purchaser"**, **"you"**, or **"your"** as the context may require) shall constitute acceptance by Purchaser of the Terms, and payment of earlier invoices for prior transactions on these terms shall also be deemed evidence of acceptance of these terms.

These Terms are an integral part of the Website Terms of Use that apply generally to the use of our Site. You should also carefully review our Privacy Policy before placing an order for products or services through this Site.

2. Order Acceptance and Cancellation.

You agree that your order is an offer to buy, under these Terms, all products and services listed in your order. All orders must be accepted by us or we will not be obligated to sell the products or services to you. We may choose not to accept orders at our sole discretion, even after we send you a confirmation email with your order number and details of the items you have ordered.

3. Prices and Payment Terms.

(a) All prices, discounts, and promotions posted on this Site are subject to change without notice. The price charged for a product or service will be the price advertised on this Site at the time the order is placed, subject to the terms of any promotions or discounts that may be applicable. The price charged will be clearly stated in your order confirmation email. Price increases will only apply to orders placed after the time of the increase. Posted prices do not include taxes or charges for shipping and handling. All such taxes and charges will be added to your total price and will be itemized in your shopping cart and in your order confirmation email. We strive to display accurate price information, however we may, on occasion, make inadvertent typographical errors, inaccuracies or omissions related to pricing and availability. We reserve the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.

(b) Terms of payment are within our sole discretion and, for the first two (2) orders per Purchaser, payment must be received by us before our acceptance of an order. After the first two (2) orders, Purchaser may submit an application to adjust their payment terms to net thirty (30). INGUN USA will provide information about the required materials to be submitted for such application. If,

after review of the application, INGUN USA permits Purchaser to adjust payment terms to net thirty (30), invoices are due and payable within thirty (30) days from the invoice date or, if there is a payment schedule on the quote, according to the payment schedule. INGUN USA reserves the right to return to prepayment terms in its sole discretion. If the Purchaser fails to timely pay, then the Purchaser shall pay INGUN USA the costs incurred by INGUN USA because of that breach including, without limitation, attorneys' fees, court costs, stenographic costs, expert fees, and all other costs of collection. We accept the following payment methods for all purchases: (1) checks made out to INGUN USA, Inc. and sent to INGUN USA, Inc. / 252 Latitude Ln Ste 105-106 / Lake Wylie SC 29710; (2) ACH/EFT payment (Electronics Funds Transfer) – Bank Account information will be emailed to Purchaser upon request by Purchaser; (3) credit card payment (VISA, Mastercard, American Express or Discover) (Purchaser must call INGUN USA to submit credit card information); and (4) wire transfer (bank account information will be emailed to Purchaser). All payments are to be made in USD without any deductions. Any fees for payments from outside the United States, such as international wire transfer fees, must be covered by the Purchaser.

4. Purchase Money Security Interest.

Purchaser hereby grants INGUN USA a security interest in all Goods purchased hereunder (including Goods, Nonconforming Goods, and Excess Goods) and the proceeds therefrom to secure Purchaser's payment obligations under this Agreement. Purchaser acknowledges that the security interest granted under this Section 4 is a purchase money security interest under South Carolina law. INGUN USA may file a financing statement for such security interest and Purchaser shall execute any such statements, invoices, or other documentation necessary to perfect INGUN USA's security interest in such Goods. The security interest described herein is in addition to, and supplemental to, the rights that INGUN USA may otherwise have at law or in equity.

5. Failure to Pay.

In the event the Purchaser fails to pay any amount to INGUN USA as and when due, INGUN USA may, in addition to all its other rights and remedies at law or in equity, including those in section 4 of the Terms, cease all shipments to Purchaser, recall any shipments in transit, and demand the return of any product shipped to the Purchaser and not yet paid for. If the Purchaser fails to timely pay, then the Purchaser shall pay INGUN USA the costs incurred by INGUN USA as a result of the breach including, without limitation, attorneys' fees, court costs, stenographic costs, expert fees, and all other costs of collection.

6. Inspection.

Purchaser agrees to inspect the goods under INGUN USA's invoice upon receipt. All goods retained by the Purchaser after the second (2nd) day following receipt will be deemed accepted.

7. Limited Warranty of INGUN USA.

Products covered by INGUN USA's invoice are sold upon the following terms and the following terms only: INGUN USA warrants to the original purchaser, and to no others, that the product is free from defects in material and workmanship for a period of ninety (90) days from the original date of purchase if not misused or abused in INGUN USA's opinion.

INGUN USA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

WE LIMIT THE DURATION AND REMEDIES OF ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE DURATION OF THIS LIMITED WARRANTY.

SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

OUR RESPONSIBILITY FOR DEFECTIVE PRODUCTS IS LIMITED TO REPAIR OR REPLACEMENT AS SET FORTH IN THIS WARRANTY STATEMENT.

The Purchaser's sole remedy in the event of a breach of any warranty contained herein shall be that INGUN USA shall at INGUN USA's option either repair or replace the defective product. Under no circumstances shall INGUN USA's liability exceed the amount paid by Purchaser as the purchase price. For items on the purchase order that have been subcontracted to third parties such as but not limited to customization of test fixtures or jigs, it shall be the subcontractor's responsibility to warrant the product to be free of defects in material or workmanship. Claims shall be directed to the subcontractor, which will be disclosed by INGUN USA. Said subcontractor warranty also applies to any product that has been procured from INGUN Pruefmittelbau GmbH, Germany due to release of a transfer order between INGUN USA, Inc. and INGUN Pruefmittelbau GmbH which is in direct reference to the order from the Purchaser with INGUN USA due to forwarding of such items to the Purchaser or another subcontractor upon arrival at INGUN USA. In such case the terms and conditions of INGUN Pruefmittelbau GmbH apply in addition to this document. INGUN Pruefmittelbau GmbH's terms and conditions can be found at www.ingun.com.

8. Limitations and Damages Disclaimer.

INGUN USA shall not be liable to the Purchaser, or any third party, for any special, consequential, incidental, exemplary or indirect costs or damages, including without limitation, legal costs, installation and removal costs, lost production or lost profit arising from any cause whatsoever, regardless of the form of the action, whether in contract, tort (including negligence), strict liability or otherwise, even if advised of the possibility of such costs or damages. For the purposes of this provision, "INGUN USA" includes INGUN USA, Inc.'s directors, officers, employees, agents, representatives, subcontractors, and suppliers.

9. Appropriate Use / Assumption of Risk.

INGUN USA products may be applied and used as components in larger assemblies, for which INGUN USA has no knowledge or control over the risks of installation, application or use of such INGUN USA products. The Purchaser acknowledges and agrees that it is solely responsible for all known and unknown risks of installation, application and use of such INGUN USA products or inability to use them and for compliance with all legal, regulatory and safety-related requirements concerning its products and any use of INGUN USA Products in the Purchaser's applications, notwithstanding any applications-related information or support that may be provided by INGUN USA.

10. Choice of Law.

INGUN USA's invoice and the relationship between the parties shall be governed and construed in accordance with the laws of the State of South Carolina. The parties hereto consent to the jurisdiction of the state and federal courts located therein. The parties agree that this transaction is a business transaction and not a consumer transaction. Any action against INGUN USA shall be maintained only in courts in the State of South Carolina.

11. Tax.

If any state with jurisdiction over a transaction with INGUN USA imposes a sales tax, excise tax or other tax upon this transaction, then, the Purchaser shall pay the amount of said tax.

12. Risk of Loss / Shipping Terms.

All transactions described in INGUN USA's invoice are EXW Lake Wylie, South Carolina. The Purchaser shall pay the shipping and if exported any necessary duties, import fees, etc. The Purchaser shall bear the risk of loss or damage in transit. The Purchaser must state its desired major carrier (FedEx, UPS or DHL) and shipping speed. Shipping and delivery dates are estimates only and cannot be guaranteed. We are not liable for any delays in shipments.

13. Product Return Policy.

Certain products cannot be returned or cancelled – (1) Customized solutions; (2) purchases over \$1000; (3) Products that INGUN USA must procure from the corporate manufacturing plant. At its sole discretion, INGUN USA may authorize the return of standard product (and standard product only) for credit against future purchases on the following terms: (a) there shall be no cash refunds; (b) All returns are subject to a 20% restocking fee; (c) There shall be no return if the Purchaser is in default of any obligation owed to INGUN USA. (d) The Purchaser must obtain prior authorization and a Return Material Authorization Number from INGUN USA before shipment; (e) The product must have been purchased by Purchaser within three (3) months of the date returned; (f) The product must be in its original sealed and unopened plastic bag or container with all labels; (g) The product must be adequately packaged for shipment. (h) INGUN USA will accept product for return only on a satisfactory inspection of the product on return; (i) The credit to the Purchaser upon a successful return shall be based on the original price when shipped less any and all freight paid by INGUN USA.

14. Blanket Orders.

Purchaser is liable for the purchase and release of all standard and non-standard product(s) ordered/released within a maximum twelve (12) month period. Any remaining quantities at the end of such time will be shipped and invoiced accordingly.

15. Delays in Matters Beyond INGUN USA's Control.

If INGUN USA is delayed or prevented from delivering products to Purchaser due to any cause beyond INGUN USA's control, then the period of performance shall be extended. Due to unforeseeable changes beyond the control of INGUN USA, INGUN USA retains the right to change its prices accordingly and to alter the delivery schedule for the products.

16. Quantities.

Unless INGUN USA otherwise specifically agrees in writing, for non-standard items INGUN USA reserves the right to over or under ship the quantities ordered by 10%.

17. Limitation of Liability.

(a) **IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.**

(b) **IN NO EVENT SHALL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNTS PAID BY YOU FOR THE PRODUCTS AND SERVICES PURCHASED FROM INGUN USA.**

18. Non-Waiver.

The Terms set forth the entire understanding between the parties with reference to the subject matter hereof. The failure of INGUN USA to enforce at any time any right or provision hereof will not constitute a waiver of such provision or a waiver of the rights to enforce the right to enforce any or all provisions at another time.

19. No Third-Party Beneficiaries.

These Terms do not and are not intended to confer any rights or remedies upon any person other than you.

20. Amendment.

Subject to Section 14, the Terms may be modified only by a written agreement duly signed by both parties. Signatories must be persons authorized to sign agreements on behalf of INGUN USA and the Purchaser.

21. Severability.

If any provision of these terms and conditions is found to be in violation of any Federal, State or local statute or regulations, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions.

22. Entire Agreement.

Our order confirmation, these Terms, our Website Terms of Use and our Privacy Policy will be deemed the final and integrated agreement between you and us on the matters contained in these Terms and supersede all prior course of dealing, course of performance, usage of trade, and oral or written agreements. **ANY TERMS ON PURCHASER'S PURCHASE ORDER OR OTHER FORM, REGARDLESS OF WHETHER COMMUNICATED BEFORE OR AFTER THIS TERM SHEET, WHICH ARE INCONSISTENT WITH THE TERMS SET FORTH HEREIN SHALL NOT APPLY.**

23. Goods Not for Resale or Export.

You agree to comply with all applicable laws and regulations of the various states and of the United States including all Export Regulations, as defined below. You represent and warrant that you are buying products or services from the Site for your own use only, and not for resale or export. Products and services purchased from the Site may be controlled for export purposes by export regulations, including but not limited to, the Export Control Reform Act of 2018 (ECRA) (Title XVII, Subtitle B of Pub. L. No. 115-232), the Export Administration Regulations (15 C.F.R. 768-799) for which ECRA is permanent statutory authority, the International Traffic in Arms Regulations (22 C.F.R. 120-128 and 130) and their successor and supplemental regulations (collectively, "**Export Regulations**").

Latest update: Lake Wylie, SC 2022-10-17