

These terms and conditions ("**Terms**") apply to any and all orders, purchases, or requests (each, an "**Order**") placed by any person or entity ("**Buyer**") for the design, manufacture, development, or sale of any products, goods or services (collectively, "**Goods**") by JPM Prototype & Mfg., Inc. ("**JPM**"). JPM's acceptance of Buyer's Order for any Goods is expressly conditioned upon these Terms and Buyer's acceptance of such Terms as set forth below. JPM does not accept any offer made by Buyer on terms differing from those set forth below, nor shall any additional or different terms or conditions be binding upon JPM unless specifically agreed to by JPM in writing.

1. **Price.** The prices shown in Buyer's final quotation shall be the price for the Goods. Such prices do not include any federal, state, or local taxes.

2. **Payment.** Payment is due within 30 days from the date of JPM's invoice. If payment is not received within 30 days, Buyer shall pay JPM a late payment fee of 1.5% per month of the unpaid balance. JPM's acceptance of any partial payment shall not constitute a waiver of JPM's right to payment in full of all amounts owing from Buyer to JPM.

3. **Commencement.** JPM shall not commence work on the Goods, put work into its schedule, or confirm a delivery date of the Goods without first having received a valid purchase order and payment as required under such purchase order.

4. **Specifications.** JPM shall only be obligated to perform and may only be held to the specifications, tolerances, materials, or other conditions as specified on the drawings incorporated into the purchase order. Any certification requirement must be requested prior to commencement of the project.

5. **Cancellations.** Once accepted, Buyer may not cancel or change an Order without the written consent of JPM, which consent may be conditioned on payment of cancellation charges including costs for tooling, set-up, material, and partially completed work.

6. **Delivery.** All Goods are shipped F.O.B. JPM's place of business. Title to and all risk of loss of the Goods shall pass to Buyer upon JPM's delivery of the Goods to carrier for shipment. Buyer shall pay all freight handling, delivery, and insurance charges for shipment of the Goods. Choice of carrier and shipping method shall be at JPM's discretion. JPM shall not be liable for delays in delivery or for failure of the carrier to perform.

7. **Inspection and Acceptance of Goods.** Buyer is deemed to have accepted the Goods unless Buyer gives JPM written notice of rejection within a reasonable period of time, which the parties agree is 10 days after receipt. Buyer's written notification of non-conforming Goods must specifically identify the defects, deficiencies, and nonconformities for which the Goods are being rejected. Buyer's failure to give JPM timely notification of non-conforming Goods shall constitute Buyer's acceptance of the Goods and acknowledgment that the Goods were received in a satisfactory condition. If Buyer rejects any Goods for defects, deficiencies, or non-conformity, JPM may rework or replace such Goods in JPM's sole discretion.

8. **Returns.** Goods may not be returned without first obtaining JPM's prior written consent or email approval. In the event JPM consents to a return of Goods, Buyer shall obtain a Return Authorization (RA) tracking number from JPM, by providing to JPM

the following information: (i) the original purchase order number; (ii) invoice number; (iii) part number or line item number, if applicable; (iv) the quantity of Goods being returned; and (v) the purchase price for such returned Goods. All returned Goods must be returned in marketable condition. Goods specifically manufactured to special order are not subject to return unless determined to be manufactured out of specification as determined on the print. Buyer shall bear any and all costs incurred in returning any Goods to JPM; provided, however, that JPM shall bear such costs if JPM determines that the Goods were manufactured out of specification.

9. **Limited Warranty.** Subject to the qualifications set forth below, JPM provides the limited warranty that the Goods will be free from defects in material and workmanship under normal use and service for a period of 90 consecutive days from the date such Goods are first placed in service, provided such first date of service is within 180 consecutive days from the date of shipment by JPM to Buyer; such limited warranty does not apply to Goods that are used in ways other than their intended purpose or are abused or damaged by Buyer or Buyer's agents. JPM and its representatives may, from time to time, offer advice and recommendations with respect to the use of the Goods. Any such advice and recommendations are not, and may not be considered, warranties by JPM, and Buyer will act upon such advice and recommendations at Buyer's sole risk.

Except for defects in workmanship as described in the immediately preceding paragraph, the foregoing limited warranty does not apply to the extent that such Goods were manufactured by JPM: (i) based on a design specified by Buyer; (ii) utilizing materials provided by Buyer; and/or (iii) utilizing materials specified by Buyer or required to be purchased and/or acquired by JPM from a supplier specified by Buyer.

**THE LIMITED WARRANTY AND REMEDIES PROVIDED FOR IN THESE TERMS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND REMEDIES WHATSOEVER, ALL OF WHICH JPM HEREBY EXPRESSLY DISCLAIMS, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR NON-INFRINGEMENT.**

10. **Limitations on Remedies.** Notwithstanding anything to the contrary, JPM's liability arising out of any sale of Goods to Buyer is expressly limited to either: (i) refund of the purchase price paid by Buyer for such Goods, without interest; or (ii) repair and/or replacement of such Goods, at JPM's election. JPM shall not be liable for any damage caused to any material or components supplied by Buyer. IN NO EVENT SHALL JPM BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, ANY LOST PROFITS, OR OTHER ECONOMIC LOSS OF BUYER ARISING OUT OF ANY BREACH OF ANY AGREEMENT BY JPM, ANY OBLIGATION OF JPM PURSUANT TO ANY AGREEMENT, OR THE FAILURE OF THE GOODS TO PERFORM IN ANY PARTICULAR MANNER. JPM SHALL NOT BE LIABLE FOR OR SUBJECT TO, AND HEREBY DISCLAIMS, ANY OBLIGATIONS WHATSOEVER ARISING FROM, ANY TORT CLAIMS OR THOSE ARISING OUT OF OTHER THEORIES OF LAW WITH RESPECT TO THE GOODS, OR ANY UNDERTAKING, ACTS, OR OMISSIONS RELATING THERETO. WITHOUT LIMITING THE FOREGOING, JPM SPECIFICALLY DISCLAIMS LIABILITY FOR THE TORT OF NEGLIGENCE, MISREPRESENTATION, AND STRICT LIABILITY.

11. **Indemnification for Special Orders.** In the event any Goods are manufactured by JPM to meet Buyer particular specifications or requirements, Buyer shall defend, indemnify, and hold harmless JPM from any and all claims arising from the manufacture, production, design, purchase, use, or sale of such special Goods, including, without limitation, claims for patent infringement, and from any related costs, attorneys' fees, expenses or liabilities incurred by JPM therefrom.

12. **Tooling.** Buyer shall pay for any special tooling, fixtures, or patterns required for the production of the Goods as indicated on the quote. JPM shall have no obligation to maintain any tooling or patterns after two years from the date of Buyer's last Order utilizing or requiring such tooling or patterns unless agreed to by JPM in writing.

13. **Overs and Unders.** JPM shall strive to ship exact quantities on all Orders; however, unless JPM agrees to ship an exact quantity in the purchase Order, JPM reserves the right by fulfilling any purchase Order by shipping an amount of Goods that is 10% over or 10% under the quantity ordered.

14. **Materials.** JPM's obligations hereunder are conditional upon JPM's ability to obtain the necessary raw materials at a reasonable price.

15. **Force Majeure.** JPM shall not be liable for any delays or failure of performance if such delay or nonperformance is caused by acts of God, floods, fires, explosions, storms, transportation difficulties, strikes, lockouts, or other labor or industrial disturbances, any law, rule order or action of any court, agency, or other governmental entity, or the exhaustion, reduction, unavailability, or delay in delivery of any product or material necessary in the manufacture of the Goods, or any delay that is beyond JPM's control.

16. **Security Interest.** JPM reserves and Buyer hereby grants a purchase money security interest in the Goods, all additions, accessions, and replacements thereto, along with all products and proceeds thereof, to secure payment by Buyer. This security interest is retained by JPM until Buyer has paid for such Goods in full, including any tooling or pattern costs. JPM may file, at Buyer's expense, financing statements pursuant to the Uniform Commercial Code to perfect or evidence JPM's security interest.

17. **Notice.** All notices required to be given to JPM under these Terms shall be given in writing and shall be effective when received by JPM at: 4745 Forge Road, Colorado Springs, Colorado 80907.

18. **Entire Agreement.** These Terms, along with the accepted purchase order, constitute and contain the entire agreement between JPM and Buyer with respect to the Goods or relationships described herein.

19. **No Third-Party Beneficiaries.** These Terms shall bind the parties and their successors and assigns. Nothing within these Terms, express or implied, is intended or shall be construed to confer upon or give to any person or entity, other than Buyer, JPM and their successors and assigns, any rights or remedies under or by reason of these Terms.

20. **Severability.** These Terms are severable. In the event that any provision or provisions hereof are determined to be invalid, unenforceable, or contrary to law by any court, arbitrator, or

administrative body of competent jurisdiction, such determination shall not impair the operation of or affect those portions of the Terms which are valid; and such court, arbitrator, or administrative body shall be permitted to amend such illegal or unenforceable provision to the slightest degree necessary to render such provision legal and enforceable.

21. **Governing Law.** All contracts and obligations between JPM and Buyer shall be governed by the laws of the State of Colorado, excluding Colorado's laws on conflict of laws. Buyer hereby expressly consents to the jurisdiction of Colorado courts. Exclusive venue for any action between JPM and Buyer shall be within the Colorado courts located in El Paso County, Colorado.

22. **Attorney Fees.** Buyer shall pay all of JPM's costs and expenses, including reasonable attorney fees, which may be incurred in documenting, determining, enforcing, or protecting JPM's rights or interests hereunder.

23. **Survival.** The provisions of paragraphs 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 17, 19, 20, 21, 22, and 23 shall survive indefinitely, any termination of this Agreement.

24. **Change History.**

Revision Date	Change Description
12/13/2018	Initial release.
11/10/2022	Name change from JPM Prototype Mfg, Inc. to JPM Advanced Manufacturing