

DIVERSIFIED PRODUCTS MANUFACTURING INC.

**PEI Domestic
Distributor Agreement**

Standard Terms and Conditions of Sale

1. **THIS OFFER AND ITS ACCEPTANCE:** "Seller" is that entity identified in the quotation, invoice, or other document originated by the Seller of the goods (or products) and services referred to herein. This document is Seller's offer to Buyer. Buyer's acceptance is expressly limited to the terms and conditions of this offer and Seller hereby objects to and rejects any additional or different terms or conditions in Buyer's acceptance, Buyer's purchase order, and other documentation purporting to order the same or equivalent goods contained in this document. Buyer accepts this offer as made and all its provisions by transmitting in oral or written form a Buyer purchase order number, an authorization to proceed, or other request by issuing any document which orders the same or equivalent goods referred to herein; by accepting or making any payment for any goods or services furnished hereunder; or by any Buyer conduct recognizing the existence of a contract between Buyer and Seller for the goods and services referred to herein. Any additional or different terms or attempt by Buyer to vary in any degree any of the terms herein shall be deemed material but shall not operate as a rejection of this offer unless they contain variances in the terms of the description, quantity, price, or delivery schedule of the goods offered herein which are unacceptable to Seller. No modification of this offer and the contract resulting (including any additional or different conditions in the Buyer's acceptance) shall be binding on Seller unless expressly agrees in writing to change this offer.

2. **PRICE:** The price for each item covered by this contract shall be the price shown for such items on the face hereof. Prices do not include any Federal, State or Local taxes, duties or fees which may be imposed upon the sale, use, transfer, importation or transportation of materials and all such costs shall be paid by Buyer.

3. **LIMITED WARRANTY:** See warranty statement.

4. **ACCEPTANCE:** Rejection of the goods supplied under this contract for defects or defective delivery shall occur within a reasonable time after their delivery or tender at the delivery point, but in any event no later than five (5) days thereafter. If the goods are not accepted or rejected by Buyer or Buyer's agent in writing to Seller within said five (5) day period, they shall be deemed accepted by Buyer. In the event of Buyer's rightful rejection of the goods, Seller's liability shall be limited to replacing the rejected goods within a reasonable time, or to allow credit to the extent of the invoice value or the goods, at Seller's option. Seller shall not be liable for any loss, damage, or expense of any kind arising from delays due to transportation, installation, buyer's rejection of goods, or any cause whatsoever.

5. **LIMITATION OF SELLER'S LIABILITY:** Seller's liability on any claim of any kind, including claims based upon Seller's negligence, breach of contract, or strict liability in tort, for any loss or damage arising out of, connected with, or resulting from the use of the products furnished hereunder or Seller's performance of this contract, shall in no case exceed the purchase price allocable to the goods or part thereof which give rise to the claim. **IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL INCIDENTAL, OR CONSEQUENTIAL DAMAGES HOWSOEVER ARISING OUT OF SELLER'S PERFORMANCE OF THIS CONTRACT AND NOTWITHSTANDING WHETHER SELLER MAY HAVE BEEN ADVISED OR IS ADVISED OF THE POSSIBILITY OF SPECIAL (OR LIQUIDATED) DAMAGES.**

6. **PAYMENT:** Invoices are due and payable 30 days from date of invoice, i.e., the date of shipment (not the date of receipt of goods). If any questions arise concerning account receivables, contact the Credit Department for assistance. In the event of discrepancies the undisputed portion of the invoice should be paid within terms.

Where a prompt payment discount is offered, funds must be received by Diversified by the 10th day following the date of invoice. Should Diversified not receive payment in a timely fashion credit terms will be revoked. For payments received beyond 10 days where a discount is taken, Diversified will invoice for the discount taken. These invoices are due upon receipt.

Where a Purchaser chooses to wire funds, Purchaser is responsible for all bank charges both at senders end and at our end. At the present time our bank is not charging for incoming wire costs. Diversified will invoice Purchaser for all shortages on wire transfers. Such shortages must be made up within 30 days or with the next order.

7. **BUYER'S DEFAULT:** If Buyer fails to make any payment to Seller when due, if Buyer's financial responsibility becomes impaired or unsatisfactory in Seller's sole judgment, or if Buyer commits a material breach of this contract, or inhibits or frustrates Seller's performance of this Contract by any act or failure to act. Seller may, without breach of contract and without prior notice or demand, suspend or cancel further performance or deliveries due hereunder. Buyer shall be liable to Seller for any losses or damages of Seller arising from such Buyer defaults and failures, as well as any resulting delays to Seller's performance. Seller may, at its sole option and its discretion, resume performance of this contract upon Buyer's removal of any inhibiting cause, and upon Buyer's providing sufficient assurance or security for its performance as Seller in its sole judgment may determine to be required.

8. **WAIVER:** The failure of Seller in any one or more instances to enforce one or more of the terms or conditions of this contract, to exercise any right or privilege hereunder, or the waiver by Seller of any breach of this contract, shall not be construed as thereafter waiving any terms, conditions, rights or privileges of this contract and the same shall continue and remain in force and effect as if no such failure to enforce had occurred.

9. **FORCE MAJEURE:** Seller may not be liable for non-performance or delay in performance resulting from any governmental law or regulation, now or hereafter in effect, or for delays caused by Seller's suppliers, or caused by Acts of God, fire, flood, wind, sabotage, strikes or other labor troubles, accidents, necessary repairs to machinery, adverse weather conditions, or any cause beyond Seller's reasonable control. In the event of any of the foregoing, Seller shall have the right to allocate and reschedule production and delivery of products to Buyer as Seller, in its sole discretion, shall deem fair and practical, without liability to Seller.

10. **DELIVERY:** Sales are F.O.B. factory. This means that title to goods passes to the customer when the carrier leaves Diversified's facility. Diversified customers can make their own shipping arrangements in coordination with Customer Services. If not otherwise specified Diversified will select carriers and make shipping arrangements on behalf of our customers.

If shipping damage or loss should occur, the Purchaser is responsible for filing the freight claim with the carrier. It is important to note damage on the carrier's bill of lading. Diversified will assist in the filing of freight claims if requested to do so by the Purchaser. Any concealed damage or shortages should be reported to Diversified within five (5) working days from the date of delivery.

Should a loss occur of product shipped, purchaser is liable for payment of the original invoice as well as for invoices created for products shipped to replace lost or damaged items. While Diversified may provide assistance to the purchaser in filing a claim, financial recovery of the loss is between the freight carrier and the purchaser.

11. **DELAY, TERMINATION, OR CANCELLATION BY BUYER:** Seller shall be entitled to recover all costs, expenses, and damages suffered as a result of Buyer's cancellation, or termination of this contract, or Buyer's delay of Seller's performance under this contract.

12. **PATENTS:** To the extent the items covered by the Sales Order are manufactured pursuant to designs provided by Buyer, Buyer shall indemnify and save harmless Seller, its agents and subcontractors, from any expense, cost, loss, damage or liability for infringement of any patents with respect to such items and their process of manufacture and Buyer agrees at its own expense to defend or assist, as Seller's option, in the defense of any action in which such infringement is alleged with respect to the manufacture, sale or use of such items delivered hereunder.

13. **ASSISTANCE BY SELLER:** No recommendation or statement made or assistance given by Seller, its representatives, or agents, in connection with the installation, application, storage, transportation, or use of the goods or products furnished hereunder shall constitute a waiver by Seller of any of the provisions herein, or enlarge Seller's liability, as herein defined, or be deemed to provide any warranty in excess of those Seller warranties set forth herein above.

14. ATTORNEY FEES AND EXPENSES: If Seller is required to file suit or take other legal action to enforce any of its rights hereunder, including without limitation, proceedings to collect amounts due Seller hereunder, Buyer shall pay the reasonable attorney fees and expenses incurred by Seller.

15. SALES: All sales are final. Any return of goods shall be subject to the prior written approval of Seller.

16. SPECIFICATIONS, APPLICATION, AND USE OF PRODUCTS: Products furnished hereunder are sold pursuant to Seller's specifications and are subject to standard manufacturing variations. Seller may change specifications at any time without incurring liability for products previously or subsequently sold. Buyer shall be responsible for the performance of goods or products produced to Buyer's specifications. Buyer shall be responsible for determining the appropriate use of application of Seller's products for Buyer's requirements, notwithstanding Buyer's solicitation of, or Seller's providing advice or recommendations to Buyer. Buyer waives any claim against Seller, and Seller's agents or employees, arising out of Buyer's selection, application or use of the products furnished hereunder. Buyer shall indemnify and defend Seller from any claim or suit for personal injury (including death), property damage, or other liability arising out of the improper selection, improper application, or any misuse of Seller's products or failure to follow Seller's application, installation, or safety instructions, or proper industry standards.

17. CREDIT APPLICATIONS: Lines of credit are subject to approval by Diversified's Credit Department. A credit application must be completed. A resale certificate must be provided by purchaser for shipments to destinations within California otherwise sales tax must be charged on the sale. Resale certificates should be submitted with credit applications.

18. TECHNICAL SERVICES: Diversified offers Field and Classroom product and application training. Training is complimentary to users of Diversified products. Classroom and application training is offered at the factory on a periodic basis at no cost to the attendee.

Diversified charges for all expenses incurred when traveling for training. Requesting party may make arrangements or Diversified will make arrangements and invoice the training sponsor. Diversified is committed to establishing and training a field sales network of manufacturers representatives. These representatives may be contacted for field training. Expenses for such training are not paid by Diversified.

19. LITERATURE: Catalogs, CD rom and Website services will be available on all non proprietary products manufactured by Diversified. Contact customer services for literature.

20. SHIPPING: Diversified maintains an extensive stock of products commonly ordered by PEI Distributors and OEM's. Several thousand components are required to support the products we catalog. We make every effort to ship the same day an order is placed. On larger stock orders we endeavor to ship in 1 to 3 weeks. Order entry is open from 8:00 AM to 5:00 PM Pacific Standard Time. We will make every effort to ship one and two day shipments from inventory. Obviously the later in the day an order is received the more difficult it is to fill a rush order.

From time to time we will be out of stock on standard items. Expedited one and two day shipments will carry an expediting charge of \$50.00. Any shipments containing DGK or DBB-III will be subject to a Hazardous Materials fee of \$50.00 per shipment. If an aerosol is shipped by air, it too will be subject to a Hazardous Materials fee of \$50.00 per shipment.

Purchaser may make their own shipping arrangements and carrier selections in coordination with customer services when confirming purchase orders.

Any freight damage or short shipment claims must be filed by the Purchaser with the carrier involved. Diversified will assist customers in filing freight claims when requested to do so by Purchaser.

Concealed damage or shortages must be reported to Diversified within five (5) days of receipt of material.

21. FREIGHT POLICY: DPM will apply a freight credit to all invoices exceeding \$2500.00 net, for shipments within the Continental US. The credit will be equivalent to UPS ground charges, including the UPS HazMat fees if applicable. Rush orders requiring 1,2 or 3 day will continue to be invoiced with the HazMat and Expediting fees. Customers will continue to be billed directly by UPS for all shipping costs.

22. RETURN MATERIAL POLICY: All returns are subject to approval by and at the sole discretion of Diversified. Inventory level, sales activity, reason for return and frequency will be considered in each request. Please note that No Annual Return Policy Exists.

All returned material requests must include either the original customer purchase order number or the original Diversified invoice number where the product was billed. Diversified will issue credits only to the original purchaser of product.

23. RESTOCKING FEES

Weaver Products Catalog	
New Construction Products	20%
Split Repair Products	40%
Isolation	Non Returnable

Industrial Pipe Accessories	
Bulkheads	Non Returnable
Centralizers	Non Returnable
Reducers	40%

Sealants & Adhesives	Non Returnable
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Job Shop	Non Returnable
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All returned items must be in perfect, resalable condition and are subject to quality control inspection prior to acceptance. Freight must be paid by the requesting party. Any damage in transit is between the carrier and the party requesting the return.

Items shipped that are out of spec or incorrect will not be assessed a restocking charge.

24. INTERPRETATION: The laws of the State of Seller's location, as set forth in Seller's address on the masthead or quotation, shall govern the interpretation and enforcement of this contract, excluding only the law of conflicts. If security interest filings are made by Seller, pursuant to the Payment paragraph hereof, the Uniform Commercial Code as enacted in the State wherein the filings are made shall govern that security interest and those filings.

25. FINAL AGREEMENT: There are no understandings or agreements between Buyer and Seller relating to this contract which are not fully expressed herein, and no change shall be made to this contract unless it is made in writing and signed by duly authorized officers of Seller and Buyer. No part of Buyer's contract(s) with Buyer's customer is included in this contract except as may be specifically and expressly incorporated in Seller's written quotation to Buyer. Buyer may not assign or otherwise delegate Buyer's obligations under this offer and any resulting contract without Seller's express written consent.

Diversified Products Manufacturing Inc. PEI Domestic Distributor Agreement

Distributor Purchase Level	Prior Years Purchases	Annual Stock Order	Discount Level
1	➤ \$25,000		25%

Level 3 distributors receive a 25% base discount.

A Haz-Mat fee of \$50.00 will be charged on all shipments of DBB III and DGK either ground or air

A Haz-Mat fee of \$50.00 will be charged on all air shipments of DBC and SB-11

Expediting Charge: For 1 or 2 day shipments requested by distributor: \$50.00

FOB Factory: Freight collect or charged to customers account.

Where Customers do not have a UPS or other acceptable account, freight will be prepaid and added to customers invoice with a \$10.00 handling charge.

A 3% prompt payment discount may be taken on invoices paid within 10 days of invoice date.

Prompt payment discount applies to all Diversified products.

Distributor discounts are not allowed on net priced items. See US List Price Sheets and Net Price Sheets

Discount review and purchase agreement may be reviewed annually, based on previous year purchases.

By executing this document Distributor acknowledges receiving, having read and understanding Diversified's policies and agrees to the Diversified's PEI Distributor Agreement.

Distributor information:

Company Name:
Print Name:
Signature
Title
Date
Discount Level
Effective Date

Distributor Contact Information:

Mailing Address:
City State Zip
Shipping Address:
City State Zip
Phone Number:
Fax Number:
Email:

Sales Rep Information:

Witness (Sales Rep)
Signature
Date

Diversified Products Mfg. Inc.

Name:
Title: Date:

Accounts Payable Contact information:

AP Contact Name:
AP Contact Phone:
Invoice Preference: Fax or Email (circle one)
Fax#:
Email:

UPS Information:

UPS Account Number

File version: 11-5-2008

Diversified Products Manufacturing Inc. PEI Domestic Distributor Agreement

Distributor Purchase Level	Prior Years Purchases	Annual Stock Order	Discount Level
2	\$25,000 to \$100,000		33%

Level 3 distributors receive a 33% base discount.

A Haz-Mat fee of \$50.00 will be charged on all shipments of DBB III and DGK either ground or air

A Haz-Mat fee of \$50.00 will be charged on all air shipments of DBC and SB-11

Expediting Charge: For 1 or 2 day shipments requested by distributor: \$50.00

FOB Factory: Freight collect or charged to customers account.

Where Customers do not have a UPS or other acceptable account, freight will be prepaid and added to customers invoice with a \$10.00 handling charge.

A 3% prompt payment discount may be taken on invoices paid within 10 days of invoice date.

Prompt payment discount applies to all Diversified products.

Distributor discounts are not allowed on net priced items. See US List Price Sheets and Net Price Sheets

Discount review and purchase agreement may be reviewed annually, based on previous year purchases.

By executing this document Distributor acknowledges receiving, having read and understanding Diversified's policies and agrees to the Diversified's PEI Distributor Agreement.

Distributor information:

Company Name:
Signature
Print Name:
Title
Date
Discount Level
Effective Date

Distributor Contact Information:

Mailing Address:
City State Zip
Shipping Address:
City State Zip
Phone Number:
Fax Number:
Email:

Sales Rep Information:

Witness (Sales Rep)
Signature
Date

Diversified Products Mfg. Inc.

Name:
Title: Date:

Accounts Payable Contact information:

AP Contact Name:
AP Contact Phone:
Invoice Preference: Fax or Email (circle one)
Fax#:
Email:

UPS Information:

UPS Account Number

File version: 11-5-2008

Diversified Products Manufacturing Inc. PEI Domestic Distributor Agreement

Level	Distributor Purchase Level	Prior Years Purchases	Annual Stock Order	Discount Level	3
	3	>\$100,000	\$20,000	40%	

distributors need to purchase a minimum annual stock of \$20,000 for shipping at one time to a single location.

Level 3 distributors receive a 40% base discount.

A Haz-Mat fee of \$50.00 will be charged on all shipments of DBB III and DGK either ground or air

A Haz-Mat fee of \$50.00 will be charged on all air shipments of DBC and SB-11

Expediting Charge: For 1 or 2 day shipments requested by distributor: \$50.00

FOB Factory: Freight collect or charged to customers account.

Where Customers do not have a UPS or other acceptable account, freight will be prepaid and added to customers invoice with a \$10.00 handling charge.

A 3% prompt payment discount may be taken on invoices paid within 10 days of invoice date.

Prompt payment discount applies to all Diversified products.

Distributor discounts are not allowed on net priced items.

See US List Price Sheets and Net Price Sheets

Discount review and purchase agreement may be reviewed annually, based on previous year purchases.

By executing this document Distributor acknowledges receiving, having read and understanding Diversified's policies and agrees to the Diversified's PEI Distributor Agreement.

Distributor information:

Company Name:
Signature
Print Name:
Title
Date
Discount Level
Effective Date

Distributor Contact Information:

Mailing Address:
City State Zip
Shipping Address:
City State Zip
Phone Number:
Fax Number:
Email:

Sales Rep Information:

Witness (Sales Rep)
Signature
Date

Diversified Products Mfg. Inc.

Name:
Title: Date:

Accounts Payable Contact information:

AP Contact Name:
AP Contact Phone:
Invoice Preference: Fax or Email (circle one)
Fax#:
Email:

UPS Information:

UPS Account Number

File version: 11-5-2008