



TERMS AND CONDITIONS FOR THE ONLINE SALE OF PRODUCTS

LAST UPDATED: July 24, 2020

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.

THESE TERMS REQUIRE THE USE OF ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS.

BY PLACING AN ORDER FOR PRODUCTS FROM THIS WEBSITE, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT, AND YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS. YOU AFFIRM THAT IF YOU PLACE AN ORDER ON BEHALF OF AN ORGANIZATION OR COMPANY, YOU HAVE THE LEGAL AUTHORITY TO BIND ANY SUCH ORGANIZATION OR COMPANY TO THESE TERMS.

YOU MAY NOT ORDER OR OBTAIN PRODUCTS FROM THIS WEBSITE IF ANY ONE OR MORE OF THE FOLLOWING APPLY TO YOU: YOU (i) DO NOT AGREE TO THESE TERMS, (ii) ARE NOT THE OLDER OF (A) AT LEAST 18 YEARS OF AGE OR (B) LEGAL AGE TO FORM A BINDING CONTRACT, OR (iii) ARE PROHIBITED FROM ACCESSING OR USING THIS WEBSITE OR ANY OF THIS WEBSITE'S CONTENTS, PRODUCTS BY APPLICABLE LAW.

These terms and conditions (these "Terms") apply to the purchase and sale of products through www.qualifiediamond.com (the "Site"). These Terms are subject to change by Qual Diamond Hi-tech Corporation (referred to as "us," "we," or "our" as the context may require) without prior written notice at any time, in our sole discretion. Any changes to these Terms will be in effect as of the "Last Updated Date" referenced above. You should review these Terms prior to purchasing any product that is available through this Site. Your continued use of this Site after the "Last Updated Date" will constitute your acceptance of and agreement to the Terms in effect as of the last updated date indicated.

2. Order Acceptance and Cancellation. You agree that your order is an offer to buy, under these Terms, all products listed in your order. All orders must be accepted by us or we will not be obligated to sell the products 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 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

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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, unless otherwise agreed by us in writing, payment must be received by us before our acceptance of an order. We accept the credit cards and other payment methods so indicated in our order and purchase process. For credit card purchases, you represent and warrant that (i) the credit card information you supply to us is true, correct and complete, (ii) you are duly authorized to use such credit card for the purchase, (iii) charges incurred by you will be honored by your credit card company, and (iv) you will pay charges incurred by you at the posted prices, including shipping and handling charges and all applicable taxes, if any, regardless of the amount quoted on the Site at the time of your order. Where we agree in writing to agree to payment against our invoice, our invoices are due and payable within the time stated on your invoice or if no time is stated, upon receipt of the invoice. We may charge a late payment penalty of 1.5% per month (or the maximum amount allowed by law if less) on amounts not disputed in good faith. Without waiving any of our other rights or remedies, we may refuse additional orders until all overdue amounts are paid in full.

4. Shipments; Delivery; Title and Risk of Loss.

(a) We will arrange for shipment of the products to you. Please check the individual product page for specific delivery options. You will pay all shipping and handling charges unless otherwise specified in the order confirmation.

(b) Title and risk of loss pass to you upon our transfer of the products to the carrier/delivery. Shipping and delivery dates are estimates only and cannot be guaranteed. We are not liable for any delays in shipments.

5. Return Process and Refunds.

(a) Return requests may be submitted to Qual Diamond at 9823 Pacific Heights Blvd Suite A, San Diego, CA 92121.

(b) We accept returns and provide refunds only for the reasons and subject to the requirements in these Terms.

(i) Sizing. Returns based on sizing issues require that you provide written evidence [that you provided us requested measurements at the time of your order and that the product received did not meet the requested measurement [within tolerances typical in the industry and as stated in our product specification made available to you].

(ii) Product Quality. Returns based on product quality issues require that you provide high-quality images (photo or video) illustrating the claimed issue and, where possible and safe, the operation of the product and such other supporting evidence of the claimed issue as we request from you so that we may validate your return request as well as offer technical solutions and alternatives. Such additional information may include information about the machinery for which you purchased or used the product (e.g., make, model, RPM capacity range, RPM used, feed rate capacity, feed rate used, and coolant).

(iii) Diamond Powder & Slurry Products. Returns of diamond powder & slurry products require that you provide high-quality images (photo or video) and relevant measurements, including of the application materials, demonstrating, and supporting the claimed issue. For claimed issues pertaining to product properties such as concentration, viscosity, or pH, you must provide testing and performance data and the testing equipment and protocols that you used demonstrating the claimed issue.

(iv) Shipping or Other Damage. Returns based on shipping or other damage require that you provide high-quality images (photo or video) illustrating the claimed damage to the packaging or products or both, as the case may be, as well as the number of products claimed to be damaged and proof of their receipt (a signed packing slip)

(v) Proof of Purchase. All return requests require that you send us proof of purchase from us or that we are otherwise able to verify the purchase from us.

(vi) Limited Warranty Terms. All returns are subject to the warranty terms, conditions, and exclusions in Section 6 of these Terms.

(c) Our approval of a return and refund is subject to the following conditions:

- (i) that we receive the initial return request within ninety days of your first receipt of the product from us;
- (ii) that you provide the supporting evidence required by these Terms and as we otherwise reasonably request from you; and
- (iii) that we are able to validate through investigation, including through your provided supporting evidence, that the product shipped was, when delivered to you or your agent or representative under these Terms, defective, damaged, or not the product you ordered as indicated by the ordering documents.

(d) We reserve the right to deny a request for return and refund in the event of any one or more of the following:

- (i) You fail to provide the evidence we require in accordance with these Terms;
- (ii) You fail to store the product properly causing damage or rust;
- (iii) The product shows indications that it was mishandled or improperly used;
- (iv) The product was improperly sized due to your failure to request the correct product sizing as part of your order.

(e) Upon conclusion of our investigation of your claim, we will notify you of our acceptance or rejection of the claim and the grounds for any rejection. For accepted claims, we will, at our option, do one of the following: (i) refund your purchase price to your payment account within 10 business days of our acceptance, or (ii) ship a replacement product to you within 3 business days for products we have in our inventory or 30 days for products we do not then have in inventory.

6. Limited Warranty.

(a) We warrant to you that for a period of 90 days from the date of shipment ("**Warranty Period**"), the products purchased through the Site, [when delivered in accordance with these Terms] will materially conform to our published specifications in effect as of the date of your order and be free from material defects in material and workmanship (the "**Limited Warranty**").

(b) **EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 6(a) AND SUBJECT TO SECTION 6(d) BELOW, WE MAKE NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS PURCHASED THROUGH THE SITE, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY; (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (iii) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(c) Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the products. Third Party Products are not covered by the warranty in [Section 6\(a\)](#). **WE MAKE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY; (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (iii) WARRANTY OF TITLE; OR (iv) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

(d) The Limited Warranty and all claims thereunder require that you follow the requirements for returns and refunds set forth in these Terms.

(e) We are not liable for a breach of the Limited Warranty for a product if: (i) you make any further use of the product after you identify the claimed defect; (ii) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product; or (iii) you alter or repair the product without our prior written consent.

(h) THE REMEDIES SET FORTH IN THIS SECTION 6 AND THE RETURN OR REPLACEMENT REMEDY SET FORTH IN SECTION 5(e) CONSTITUTE YOUR SOLE AND EXCLUSIVE REMEDY AND OUR ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY IN SECTION 6(a).

7. Limitation of Liability.

(a) **IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING ACTIVE OR PASSIVE 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 WILL OUR AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THE PRODUCT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNTS PAID BY YOU FOR THE PRODUCT SOLD THROUGH THE SITE THAT GAVE RISE TO THE CLAIM.**

8. Goods Not for Resale or Export. You represent and warrant that you are buying products from the Site for your own use only, and not for resale or export. You further represent and warrant that all purchases are intended for final delivery to locations within the US.

9. Intellectual Property Use and Ownership. You acknowledge that:

(a) Qual Diamond Hi-tech Corporation is and will remain the sole and exclusive owner of all intellectual property rights in and to each product that is offered on or sold through (or both) on this Site and any related specifications, instructions, documentation or other materials, including, but not limited to, all related copyrights, patents, trademarks, and other intellectual property rights. You do not and will not have or acquire any ownership of these intellectual property rights in or to such products or of any intellectual property rights relating to those products.

11. Force Majeure. We will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms, for any failure or delay in our performance under these Terms when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, pandemic, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

12. Governing Law and Jurisdiction. All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of California.

13. Waiver of Jury Trials and Binding Arbitration.

(a) **YOU AND QUAL DIAMOND HI-TECH CORPORATION ARE HEREBY AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.**

ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND US ARISING FROM OR RELATING IN ANY WAY TO YOUR PURCHASE OF PRODUCTS THROUGH THE SITE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.

(b) The arbitration will be administered by the Judicial Arbitration and Mediation Services, Inc. (“JAMS”) pursuant to its Comprehensive Arbitration Rules and Procedures and Expedited Procedures in those Rules.

The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the agreement is void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. The arbitrator shall Any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction. The arbitration will be conducted by one neutral arbitrator selected by the parties (or, if the parties are unable to agree, one neutral arbitrator selected by the Administrator), provided that such individual may not be a current or former employee or director, or a current stockholder, of either party or any of their respective affiliates. The arbitration and all associated discovery proceedings and communications will be conducted in English, and the arbitration will be held in San Diego County in California, USA. The arbitrator will, in rendering his or her decision, apply the substantive law of the State of California, USA, without giving effect to its principles of conflicts of law. The arbitrator’s authority to render an award will be subject to the limitations set forth in Section 7. Judgment on the Award may be entered in any court having jurisdiction. This clause does not preclude the parties or either party from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

14. Assignment. You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Section 14 is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

15. No Waivers. The failure by us to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any right or provision will be effective only if in writing and signed by a duly authorized representative of Qual Diamond Hi-tech Corporation.

16. No Third-Party Beneficiaries. These Terms do not and are not intended to confer any rights or remedies upon any third party.

17. Notices.

(a) To You. We may provide any notice to you under these Terms by: (i) sending a message to the e-mail address you provide us or (ii) posting it to the Site. Notices sent by e-mail will be effective when we send the e-mail and notices we provide by posting to the Site will be effective upon posting. It is your responsibility to keep your e-mail address on file with us current.

(b) To Us. To give us notice under these Terms, you must contact us as follows: (i) by facsimile transmission to 858.263.4359; or (ii) by personal delivery, overnight courier or registered or certified mail to Qual Diamond at 9823 Pacific Heights Blvd Suite A, San Diego, CA 92121. We may update the facsimile number or address for notices to us by posting a notice on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by facsimile transmission or overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

18. Severability. If any provision of these Terms is invalid, illegal, void or unenforceable, then that provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remaining provisions of these Terms.

19. Entire Agreement. Our order confirmation and these Terms will be deemed the final and integrated agreement between you and us on the matters contained in these Terms.