



Legal & Conditions of Sale

The items described in this document are hereby offered for sale at prices to be established by Rubber-Cal, Inc., its subsidiaries and its authorized distributors. This offer and its acceptance by any customer ("Buyer") shall be governed by all of the following Terms and Conditions. Buyer's order for any item described in its document, when communicated to Rubber-Cal, Inc., its subsidiary or an authorized distributor ("Seller") verbally or in writing, shall constitute acceptance of this offer. Your access to browsing and/or use of this site are subject to the following Terms & Conditions and all other terms, conditions or guidelines set out elsewhere in this site, as well as all applicable laws, rules and regulations.

1. Terms and Conditions of Sale: All descriptions, quotations, proposals, offers, acknowledgments, acceptances, and sales of Seller's products are subject to and shall be governed exclusively by the terms and conditions stated herein. Buyer's acceptance of any offer to sell is limited to these terms and conditions. Any terms or conditions in addition to or inconsistent with those stated herein proposed by Buyer in any acceptance of an offer by Seller are hereby objected to no such additional, different or inconsistent terms and conditions shall become part of the contract between Buyer and Seller unless expressly accepted in writing by Seller. Seller's acceptance of any offer to purchase by Buyer is expressly conditional upon Buyer's assent to all the terms and conditions stated herein, including any terms in addition to, or inconsistent with those contained in Buyer's offer. Acceptance of Seller's products shall in all events constitute such assent.

2. Payment: Contingent on the approval of credit, payment shall be made by Buyer net 30 days from the date of delivery of the items purchased hereunder. Any claims by Buyer for omissions or shortages in a shipment shall be waived unless Seller receives notice thereof within 30 days after Buyer's receipt of the shipment. Delinquent account at 60 days will be placed for collection. A 1-1/12% per month (18% yearly) finance charge will be made when past due. Buyers without approved credit terms can use Visa, MasterCard, American Express, or Discover credit cards. Checks or cashiers checks tendered by buyers without open account terms will have a five day clearing period. Wire instructions are available upon request.

3. Shipping and Delivery: Unless otherwise provided on the face hereof, delivery shall be made F.O.B. Seller's plant. Regardless of the method of delivery, however, risk of loss shall pass to Buyer upon Seller's delivery to a carrier. Since inventories are not static, any delivery dates shown are approximate only and Seller shall have no liability for any delays in delivery. All freight or shipping charges are the responsibility of the consignee (i.e. buyer). All freight or shipping quotes are estimates provided by carriers and Rubber-Cal has no control over such costs, hence freight charges are subject to change without notice. All incidental and accessorial charges incurred by third party shipping firms, including fuel surcharges, re-delivery charges, inside deliveries, lift-gate services, or any other services added by the consignee or their agents are the responsibility of the consignee (i.e. buyer.)

4. Warranty: Rubber-Cal, Inc. offers the following limited warranty on all floor mats, flooring, mats and matting products for a period of three years from date of sale to the original purchaser of our products.

- I. The product will comply with the technical specifications and be fit for those applications as set forth in the manufacturer's published technical and promotional materials at the time of sale. THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR ANY OTHER WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.
- II. The product will be free of defects in materials and workmanship (subject to the limitations set forth below) for a period of three years from the date of purchase from the manufacturer. This warranty is limited to the repair or replacement of products which are shown to be defective during the Warranty Period. The owner/end-user agrees not to advance any claim for any other measure of damage or loss. Rubber-Cal, Inc. shall not be liable for installation, disassembly, removal, disposal, return shipping, or other similar costs. THIS WARRANTY DOES NOT COVER DISSATISFACTION OR PROBLEMS OR OTHER DAMAGE TO THE MATERIALS AS DESCRIBED IN THE MANUFACTURER WARRANTY STATEMENT.

III. This warranty does not extend to:

- a. Products which have been improperly installed.
- b. Products installed over improperly prepared sub-surfaces or preparation of sub-base not specifically approved by manufacturer.
- c. Normal wear and tear of products.
- d. The surface appearance of the product or color inconsistency.
- e. Products subject to misuse, abuse, neglect, chemical cleaning, adhesives not recommended for use, or contact not specifically approved by manufacturer.
- f. Products which have been altered, modified, fabricated, or amended in any way.
- g. Cracking, warping, soiling, fading, improper maintenance or abuse caused during the service life and items such as roller skates, golf shoes, pets, cleat, weight and exercise equipment, etc.

IV. Manufacturer's sole liability under this limited warranty shall be the repair or replacement, excluding installation and other costs, at its option, of product strictly according to the procedures set forth below. The implied warranties of merchantability and fitness for a particular purpose are hereby specifically disclaimed. In no event shall manufacturer be liable for any special, indirect or consequential damages, whether arising out of contract, tort or any theory of law. Rubber-Cal, Inc. shall not be liable for any damage, loss or claim whatsoever unless the material is installed and used according to the written instructions provided by Rubber-Cal, Inc. and used only as intended by Rubber-Cal, Inc.

V. To exercise this limited warranty, manufacturer must be notified within fifteen days of any occurrence giving rise to claim and prior to installation, given opportunity to inspect the product, and have issued direction to the original purchaser respecting disposition of product to be replaced under this limited warranty. Purchaser shall comply with all reasonable requests of manufacturer in the administration of any warranty claim. Non-compliance with installation instructions and maintenance guidelines as recommended by Rubber-Cal, Inc. Manufacturer cannot assume responsibility for the suitability of flooring and rubber sheet material and accompanying products for each individual installation, use, and application. As manufacturer has no control over the installer's proper application. Should an individual piece be doubtful as to appearance or dimension, the installer should not use the piece in question. Such damage is not covered.

VI. NO AGENT OR REPRESENTATIVE OF RUBBER-CAL, INC. HAS ANY EXPRESS OR IMPLIED AUTHORITY TO MAKE ANY REPRESENTATION, PROMISE OR GUARANTEE NOT STATED HEREIN.

VII. Exposure to UV light and sunlight will cause color variation to rubber products.

VIII. No returns will be accepted without written authorization from Rubber-Cal, Inc. Failure to comply with the above constitutes a waiver of your claim.

IX. Rubber-Cal, inc. will at its option either repair or replace from current inventory of available products the defective flooring and or rubber sheet, provided the defect is not the result of misuse, accident, abuse or alteration and provided further that the product is used in the manner specifically set forth in literature describing the product which is issued or provided by Rubber-Cal, Inc.

5. Changes, Reschedules and Cancellations: Buyer may request to modify the designs or specifications for the items sold hereunder as well as the quantities and delivery dates thereof, or may request to cancel all or part of this order, however, no such requested modification or cancellation shall become part of the contract between Buyer and Seller unless accepted by Seller in a written amendment to this Agreement. Acceptance of any such requested modification or cancellation shall be at Seller's discretion, and shall be upon such terms and conditions as Seller may require.

6. Special Tooling: A tooling charge may be imposed for any special tooling, including without limitation, dies, fixtures, molds and patterns, acquired to manufacture items sold pursuant to this contract. Such special tooling shall be and remain Seller's property notwithstanding payment of any charges by Buyer. In no event will Buyer acquire any interest in apparatus belonging to Seller which is utilized in the manufacture of the items sold hereunder, even if such apparatus has been specially converted or adapted for such manufacture and notwithstanding any charges paid by Buyer. Unless otherwise agreed, Seller shall have the right to alter, discard or otherwise dispose of any special tooling or other property in its sole discretion at any time.

7. Buyer's Property: Any designs, tools, patterns, materials, drawings, confidential information or equipment furnished by Buyer or any other items which become Buyer's property, may be considered obsolete and may be destroyed by Seller after two (2) consecutive years have elapsed without Buyer placing an order for the items which are manufactured using such property. Seller shall not be responsible for any loss or damage to such property while it is in Seller's possession or control.

8. Taxes: Unless otherwise indicated on the face hereof, all prices and charges are exclusive of excise, sales, use, property, occupational or like taxes which may be imposed by any taxing authority upon the manufacture, sale or delivery of the items sold hereunder. If any such taxes must be paid by Seller or if Seller is liable for the collection of such tax, the amount thereof shall be in addition to the amounts for the items sold. Buyer agrees to pay all such taxes or to reimburse Seller therefore upon receipt of its invoice. If Buyer claims exemption from any sales, use or other tax imposed by any taxing authority, Buyer shall save Seller harmless from and against any such tax, together with any interest or penalties thereon which may be assessed if the items are held to be taxable. International transactions may be subject to local taxes, tariffs, customs fees, and other surcharges, which are the full responsibility of the buyer.

9. Indemnity For Infringement of Intellectual Property Rights: Seller shall have no liability for infringement of any patents, trademarks, copyrights, trade dress, trade secrets or similar rights except as provided in this Part 10. Seller will defend and indemnify Buyer against allegations of infringement of U.S. patents, U.S. trademarks, copyrights, trade dress and trade secrets (hereinafter 'Intellectual Property Rights'). Seller will defend at its expense and will pay the cost of any settlement or damages awarded in an action brought against Buyer based on an allegation that an item sold pursuant to this contract infringes the Intellectual Property Rights of a third party. Seller's obligation to defend and indemnify Buyer is contingent on Buyer notifying Seller within ten (10) days after Buyer becomes aware of such allegations of infringement, and Seller having sole control over the defense of any allegations or actions including all negotiations for settlement or compromise. If an item sold hereunder is subject to a claim that it infringes the Intellectual Property Rights of a third party, Seller may, at its sole expense and option, procure for Buyer the right to continue using said item, replace or modify said item so as to make it non-infringing, or offer to accept return of said item and return the purchase price less a reasonable allowance for depreciation. Notwithstanding the foregoing, Seller shall have no liability for claims of infringement based on information provided by Buyer, or directed to items delivered hereunder for which the designs are specified in whole or part by Buyer, or infringements resulting from the modification, combination or use in a system of any item sold hereunder. The foregoing provisions of this Part 10 shall constitute Seller's sole and exclusive liability and Buyer's sole and exclusive remedy for infringement of Intellectual Property Rights. If a claim is based on information provided by Buyer or if the design for an item delivered hereunder is specified in whole or in part by Buyer, Buyer shall defend and indemnify Seller for all costs, expenses or judgments resulting from any claim that such item infringes any patent, trademark, copyright, trade dress, trade secret or any similar right. Intellectual Property. Any trademarks, trade Names, logos, and/or service marks displayed on this site are the property of their respective owners and must not be used in any manner without the express prior written consent of such owner.

10. Force Majeure: Seller does not assume the risk of and shall not be liable for delay or failure to perform any of Seller's obligations by reason of circumstances beyond the reasonable control of Seller (hereinafter events of Force Majeure). Events of Force Majeure shall include without limitation, accidents, acts of God, strikes or labor disputes, acts, laws, rules or regulations of any government or government agency, fires, floods, delays or failures in delivery of carriers or suppliers, shortages of materials and any other cause beyond Seller's control.

11. Entire Agreement/Governing Law: The terms and conditions set forth herein, together with any amendments, modifications and any different terms or conditions expressly accepted by Seller in writing, shall constitute the entire Agreement concerning the items sold, and there are no oral or other representations or agreements which pertain thereto. No actions arising out of the sale of the items sold hereunder or this Agreement may be brought by either party more than two (2) years after the cause of action accrues.

12. Governing Law: This Agreement shall be governed in all respects by the internal laws of the State of California. Each of the parties to this Agreement irrevocably consent to the exclusive jurisdiction of the federal and state courts located in Orange County, California, as applicable for any matter arising out of or relating to this Agreement.

13. Severability: If any portion of this Agreement is held by a court of law to be illegal, invalid or unenforceable, (i) that provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and (ii), the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.

14. Attorneys' Fees: The prevailing party in any action to enforce or interpret the terms of this Agreement shall be entitled to its reasonable attorneys' fees.

15. Waiver: Neither failure nor delay on the part of any party to exercise any right, remedy, power or privilege hereunder nor course of dealing between the parties shall operate as a waiver thereof, or of the exercise of any other right, remedy, power or privilege.

16. Damaged Goods and Shortages: Upon delivery the buyer should inspect and count articles before accepting shipment. Damages and shortages should be documented on the freight bill. If concealed damage is discovered after receipt of merchandise, a written request for inspection should be made to the delivering carrier. Be sure to retain all packaging. Claims for shortages, damage and concealed damage must be made without delay by the consignee with the delivering carrier. According to ICC regulations, filing claims with freight carriers is the responsibility of the consignee.

17. Price Changes: Prices are subject to change without notice. Every effort will be made to announce price changes in advance. However, since we have no control over cost increases to us, we may be forced to increase prices without prior notice; in that case, the purchaser will be notified of the increased price before the order is filled.

18. Returned Goods: No material will be accepted without authorization and must be returned within 30 days of invoicing. All returns are subject to a 10% restock fee. Returns must be shipped prepaid. No collect shipments will be accepted. Custom made, custom cut products or non-stock items are not refundable.

19. Quotations: Upon request, we will confirm a verbal price quotation in writing. Quotations remain firm for a period of 30 days unless otherwise specified. No verbal quotation is valid without our documented written quotation.

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22. Revisions and Updates: The information is provided by Rubber-Cal as a convenience and is subject to change without notice.