



TERMS & CONDITIONS

TERMS AND CONDITIONS OF SALE / ORDER CONFIRMATION

- ACCEPTANCE:** WE ACCEPT AND CONFIRM YOUR ORDER FOR THE ITEMS, GOODS AND PRODUCTS DESCRIBED ON THE FIRST PAGE OF THIS CONFIRMATION OF YOUR ORDER. YOU AGREE TO THE TERMS AND CONDITIONS OF SALE SET FORTH ON THE COVER PAGE AND AS SET FORTH HEREINBELOW. NO DIFFERENT OR ADDITIONAL TERMS ARE ACCEPTABLE BY ASI UNLESS AGREED ON IN WRITING AND SIGNED BY ASI. THESE TERMS AND CONDITION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER TERMS AND CONDITIONS APPEARING ON BUYER'S ORDER OR ELSEWHERE AND APPLY TO ALL QUOTATIONS MADE AND ORDERS ACCEPTED BY ASI UNLESS SPECIFICALLY STATED TO THE CONTRARY ON THE FACE OF THIS CONFIRMATION OF ORDER. ASI IS NOT RESPONSIBLE FOR TYPOGRAPHICAL OR CLERICAL ERRORS MADE IN ANY QUOTATIONS, ORDERS OR ASI PUBLICATIONS.
- Payment:** Payment shall be made as follows: Buyer must make a 50% deposit on the price of each custom made item at the time of Buyer's return of this Confirmation of Order. The balance is due prior to the date of shipping the item, which date will be provided to Buyer by ASI on the cover page or as soon as possible. All funds for payment shall be in U.S. dollars in the form of cashier's check, money order, wire transfer, or credit card. Deposits, but not final payment, may be made in the form of Buyer's check, payable to ASI. Shipments will not be made C.O.D. ASI may refuse to manufacture any item unless payment in full is first received whenever, in the sole discretion of ASI, there is doubt as to Buyer's ability to pay.
- Shipment:** The goods shall be shipped F.O.B. carrier ASI's factory, Garland, Texas. All risk of loss passes to Buyer when ASI delivers the order, or any portion thereof, to the carrier. If Buyer does not specify a preferred method of shipment, ASI shall exercise sole discretion in selecting a method of shipment. ASI uses the services of major common carriers and delivery services and, for foreign orders, freight forwarders. All costs and expenses relating to shipment, including insurance, customs expenses, duties, taxes, etc. shall be the sole responsibility of Buyer. ASI generally will ship freight collect, unless Buyer requests other arrangements and prepays ASI for all shipping expenses. Shipments will be insured at Buyer's expense unless otherwise specified, and ASI assumes no responsibility for placing of valuation upon a shipment unless requested to do so by Buyer. Partial shipments of any order from Buyer may be made by ASI in order to facilitate the earliest possible delivery of the item ordered; provided, however, that partial shipment shall not be made unless ASI has been paid in full for the entire order.
- Delivery:** The projected delivery date is ASI's reasonable estimate, based on current and anticipated factory loads, of when the order will be shipped. ASI shall not be liable for damage or for delay in delivery arising from causes beyond its control and without its fault or negligence including, but not limited to, acts of God, acts of government, fires, floods, epidemics, quarantine restriction, strikes, freight embargoes or delays, and severe weather. If the delay is caused by the delay or default of a subcontractor of ASI and if such delay arises from causes beyond the control of either ASI or the subcontractor, ASI shall not be liable to Buyer in damages.
- Limited Warranty:** ASI provides Buyer a limited repair and replacement warranty and agrees and warrants only that the products, identified by category below, will be fit for their intended purpose, merchantable, and without material defect in workmanship and materials for the period and types of product specified as follows:
 - Inflatables manufactured by ASI: Two (2) years from the date of shipment to Buyer.
 - Pieces and Parts ordered from ASI: Thirty (30) days from date of shipment to Buyer.
 - Other Equipment (not manufactured by ASI): ASI extends no warranty of any kind.No warranty is made relating to color. All requests of Buyer for warranty work and replacements are subject to product inspection at ASI's factory in Garland, Texas. Buyer must ship the products to ASI at Buyer's expense. Ordinary wear and tear will not invalidate ASI's limited warranty, but misuse, improper handling or storage, improper repairs, improper maintenance and care, or accidental, abusive or negligent treatment of the product will invalidate ASI's warranty. Buyer must use stakes, tie-downs and ground covers at all times to ensure the safety of users and the equipment. This warranty is not a guarantee that the product will not through use, handling and storage develop tears or punctures from time to time, the repair of which is the responsibility of Buyer. No statement, remark or representation of any employee or agent of ASI may vary this Limited Warranty unless in writing and signed by the President of ASI.
- Inspection:** Buyer shall inspect the product(s) promptly after receipt and shall notify ASI in writing of any claims, including claims of breach of warranty, within fifteen (15) days after Buyer discovers or should have discovered the facts upon which the claim is based. Failure of Buyer to give written notice of a claim within the inspection time period shall be deemed to be a waiver of a claim for defective products, a waiver of the right to reject the goods, and conclusive proof that the product(s) were received by Buyer without defect(s).
- DISCLAIMER:** the provisions of paragraph 5 are ASI's sole obligation and ASI excludes all other remedies or warranties, express or implied, including warranties of merchantability and fitness for a particular purpose, and all warranties arising from the course of dealing or usage and customs of the trade, whether or not said purposes or specifications are described herein. ASI further disclaims any responsibility whatsoever to buyer or to any other person for injury to person or damage to or loss of property or value caused by any product which has been subjected to misuse, negligence or accident; or misapplied; or modified or repaired by unauthorized persons; or improperly installed or maintained.
- LIMITATION OF LIABILITY:** Under no circumstances shall ASI be liable for any incidental, consequential, punitive, reliance, delay or special damages, losses or expenses arising from this confirmation of order or ASI's or buyer's performance of nonperformance, or any acts or omissions of ASI, or in connection with the use of, or inability to use, the goods for any purpose whatsoever. In limitations and exclusions of paragraphs 7 and 8, ASI shall not be responsible for damages to any person or entity, including but not limited to buyer and buyer's customers, for an amount exceeding the amount paid by buyer for the products ordered and confirmed by this confirmation order.
- Tolerance:** All dimensions stated in the catalogs, or elsewhere, pertaining to products sold by ASI are approximate and within industry tolerances.
- Patents:** ASI makes no warranty that the goods will be delivered free of the rightful claim of any third party by way of infringement or the like. If ASI determines, in its sole discretion, that making, using, or selling the goods would result in the infringement of any patent, ASI reserves the right to cease manufacturing and/or shipping the product, without liability to Buyer.
- Modifications:** Prices are subject to adjustment if Buyer requests changes in specifications, quantities, or delivery requirements. All paragraphs of this Confirmation of Order shall apply to the goods to which such changes apply, and no modification of the terms and conditions hereof shall be binding on ASI unless contained in writing signed by ASI and expressly stating both that such terms are being modified and the nature of such modification. This order cannot be changed within the two (2) week period prior to the projected shipment date unless ASI and Buyer mutually agree to an appropriate change order fee and an appropriate new shipment date, if applicable.
- Cancellation:** Buyer may cancel this order, in whole or in part, upon written notice to ASI within 3 business days of our receipt of this Confirmation of Order. Buyer shall be liable for the payment of cancellation charges, which charges shall be the sum of: (1) the price of all goods that have been delivered and not previously paid for, plus (2) the actual cost incurred by ASI that is properly allocable to the goods not delivered at the time of decrease or cancellation, including, without limitation, the cost of components and materials purchased for use in producing such goods, plus (3) the profit, and reasonable overhead that ASI would have made from full performance by ASI, plus (4) the costs of engineering, prototypes, testing, tooling, and similar items produced for Buyer, plus (5) the reasonable costs incurred by ASI in making settlement and effecting collection hereunder. In no event will the fee for Buyer's ultimately cancellation of an order be less than twenty-five (25%) of the total order.
- Taxes:** All charges are subject to the federal, state and local taxes, if any, pertinent at the point of delivery. Buyer shall pay such taxes imposed on this order, and all penalties and interest, if any, accrued therewith.
- Interpretation:** The rights and liabilities arising out of this contract with ASI shall be determined under the Uniform Commercial Code as enacted in Texas, without application of choice of law rules or the United Nations Convention on Contracts for the Sale of Goods (as to foreign shipments).
- Effect of Breach on Risk of Loss:** Breach of this contract by ASI shall have no effect on the provisions controlling the risk of loss of the goods, and Sections 2:510(1) and 2:510(2) of the Uniform Commercial Code shall have no effect on this Confirmation of Order.
- Use and Indemnification:** Buyer is solely responsible for the manner of use of the products and other equipment. Buyer is solely responsible for all signage, labels and warnings to consumers or other users of the products and equipment, and for any and all other acts necessary, including user warnings and limitations (e.g., weight, height, age, medical condition limitations), to ensure the safety of the users. Buyer shall use stakes, tie-downs, and other applicable devices necessary to ensure to the safety of users. Buyer agrees to indemnify, hold harmless and defend ASI from actions and claims of third parties, including customers of Buyer and users of the goods and products sold to Buyer, arising out of or in connection with the use of the goods and products herein described or resulting from the breach of the provisions in this Confirmation of Order by Buyer. In the event ASI is required to commence an action to enforce this provision, Buyer shall pay all of ASI's legal costs and expenses.
- Integration:** There are no representations, warranties or conditions, express or implied, statutory or otherwise except those herein contained, and no agreements or waivers collateral hereto shall be binding on either party unless in writing and signed by Buyer and accepted ASI. This Confirmation of Order contains all of the promises, warranties, terms and conditions of the agreement between the parties and supersedes any, and all oral or implied promises, undertakings and prior agreements.
- Governing Law, Jurisdiction and Venue:** in the event of litigation between the parties concerning the order or any product shipped to Buyer hereunder, the laws of Texas, U.S.A., shall govern such action. Venue shall be in Dallas County, Texas, and the action shall be brought in the Texas or federal courts of appropriate jurisdiction.

Buyer: _____ Date: _____

ASI Representative: _____ Date: _____