

Dacor Standard Terms and Conditions of Sale

1. **Applicability and Acceptance.** The terms and conditions set forth herein shall exclusively govern the sale of goods by Dacor to Buyer. Acceptance of this offer or of the goods furnished pursuant to this order is expressly limited to the terms and conditions contained herein. All contracts or sales orders for Dacor's products are accepted, and all shipments of goods are made, on the express understanding that the Terms and Conditions set forth herein shall be applicable thereto, and shall supercede any provision on Buyer's purchase order or other documents accepted by Dacor which are at variance with or in additions to these Terms and Conditions. No changes or additions to these Terms and Conditions shall be binding upon Dacor unless expressly agreed to in writing, executed by an authorized officer of Dacor.
2. **Delivery.** Delivery is F.O. B Dacor's bonded warehouse. Buyer assumes all risk of loss or damage to goods in transit. Dacor will use its best efforts to deliver as scheduled, but Buyer acknowledges that delivery schedules are approximate only. Dacor shall not be liable for any damages, consequential or otherwise, which may be claimed by buyer to arise from late delivery. When partial shipments are made, each such shipment shall be invoiced and paid separately in accordance with the terms hereof.
3. **Security Interest.** Buyer hereby grants to Dacor a security interest in the goods being sold and in all proceeds from such goods to secure performance of all of Buyer's obligations in connection with the purchase of said goods, and if required by Dacor, Buyer shall execute and deliver such separate security agreement, financing statements or other documents as may be necessary to evidence such security interest or enable Dacor to perfect such security interests.
4. **Taxes.** Prices are exclusive of all taxes and duties, however designated, including sales, use, import and excise taxes (but excluding taxes on Dacor's net income) These taxes and other taxes are measured whole or in part by gross receipts applicable to Buyer's order shall be borne by Buyer. If Buyer claims exemption from any of these taxes, Buyer shall promptly furnish satisfactory proof of exemption and shall indemnify Dacor for all for any loss, cost and damage, including attorney's fees, incurred by such taxes.
5. **Payment Terms.** Payment shall be due thirty (30) days from date of invoice, unless otherwise agreed to by Dacor. Overdue payments shall bear interest at the rate of 1 1/2% per month. If in Dacor's judgement buyers financial responsibility becomes impaired or unsatisfactory or if Buyer defaults under any contract with Dacor, Dacor may demand and Buyer shall give advance cash payment or satisfactory security and Dacor may withhold shipments until such payment and security is received, Buyer expressly waives any right of set-off and shall make no deductions from payment due hereunder or for any damages of any type claimed by Buyer against Dacor.
6. **Buyer Inspection and Acceptance.** Within 5 days after tender of delivery to or receipt of Buyer of any shipment, Buyer shall inform Dacor in writing if the goods are found defective or short in any respect. Failure to so inform Dacor or any use of the goods by Buyer shall constitute conclusive evidence that Buyer waives any right to reject such goods without the prior written authorization of Dacor. All returned goods will be subject to a 15% restocking charge. For returned goods, all freight will be prepaid by the customer.
7. **Limited Warranty.** Dacor warrants its products in accordance with its standard limited Product Warranty, printed copy of which is enclosed with each product, and the terms of which are incorporated herein by this reference. The terms of Dacor's standard limited Product Warranty are the sole and exclusive remedies. DACOR MAKES NO OTHER EXPRESS WARRANTIES. OUTSIDE OF THE FIFTY UNITED STATES AND THE DISTRICT OF COLUMBIA, ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF A MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE LIMITED IN DURATION TO ONE YEAR FROM THE DATE OF ORIGINAL PURCHASE. IN NO EVENT SHALL DACOR BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES. Dacor neither authorizes any person to assume for it any responsibility other than the liability expressed in this Limited Warranty.
8. **Trademarks.** Buyer shall not remove, alter, obliterate or cover up Dacor's trademarks appearing on any of the goods and shall not take actions which are inconsistent with Dacor's ownership of such trade names and trademarks.
9. **Entire Understanding.** These terms and conditions shall supercede all prior written or oral proposals, statements and agreements relating to the matters covered hereby of any kind whatsoever made by Dacor or its representatives and cannot be modified or terminated except by a writing signed by both parties.
10. **Law Governing Disputes.** These Terms and Conditions shall be construed and enforced in accordance with the laws of the State of California. Any action or proceeding brought by either party against the other arising out of or related to these Terms and Conditions shall be brought in a California state court of competent jurisdiction in and for the County of Los Angeles, California, and Buyer hereby submits to the *in persona* jurisdiction of the courts of California for all purposes arising out of or related to these Terms and Conditions or the transaction contemplated herein.
11. **Buyer Solvent.** Buyer represents that, at the time of signing and accepting this order, Buyer is not insolvent within the meaning of the UCC or the bankruptcy laws of the United States and that there have been no material adverse changes with respect to Buyer's financial condition since such time as Buyer has provided such financial information in its credit application.
12. **Assignment and Delegation.** The rights and obligations of Buyer under this agreement may not be assigned or delegated without the prior written consent of Dacor.
13. **Severability.** If any of these Terms and Conditions are found to be illegal and unconscionable by a court of competent jurisdiction, the remaining Terms and Conditions will remain in full force and effect.
14. **Attorney's Fees.** In any suit or action arising out of or in connection with this agreement, the prevailing party shall be awarded reasonable attorney's fees and costs.