

Terms and Conditions of Sale

These terms and conditions create a contract between you and EZ Flex (the "Agreement"). Please read the Agreement carefully.

1. INTRODUCTION - This Agreement governs your purchase of EZ Flex's goods. The goods that are the subject of a sale by EZ Flex to you are referred to as the "Products". All sales of Products by EZ Flex are governed by and subject to (i) EZ Flex's quotation, order acknowledgement, or a separate written agreement signed by an authorized representative of EZ Flex, as applicable, and (ii) these terms and conditions, whether or not they are specifically referenced in or incorporated by EZ Flex's quotation, order acknowledgement, or the separate written and signed agreement. Any irreconcilable conflict between these terms and conditions and any terms in EZ Flex's quotation, order acknowledgement, or the separate written and signed agreement shall be resolved in favor of the quotation, order acknowledgement, or the separate written and signed agreement. EZ Flex's acceptance of your purchase order or commencement of performance shall not constitute acceptance of any of your terms and conditions. **TERMS ADDITIONAL TO OR DIFFERENT FROM THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO TERMS CONTAINED IN YOUR PURCHASE ORDER OR YOUR STANDARD TERMS AND CONDITIONS OF PURCHASE, ARE DEEMED MATERIAL AND HEREBY REJECTED UNLESS OTHERWISE ACCEPTED BY EZ FLEX IN WRITING.**

2. PAYMENT - Unless otherwise agreed to in writing by EZ Flex (such as through a quotation, order acknowledgement, or the separate written and signed agreement), payment is due immediately upon submission of any order.

3. INTELLECTUAL PROPERTY - The EZ Flex name, the EZ Flex logo, and any other EZ Flex trademarks, service marks, graphics, and/or logos used in connection with the Products are trademarks or registered trademarks of EZ Flex in the United States of America and/or other countries throughout the world. You are granted no right or license with respect to any of these trademarks or any of EZ Flex's intellectual property.

4. PRICES - All prices quoted are subject to change, without notice, at any time prior to EZ Flex's acceptance of your order.

5. CUSTOM ORDERS - There are no refunds available for any "custom" ordered products. Custom orders include, but are not limited to, products of a non-standard size, color, and/or thickness, which are requested by the customer at the time of order. Custom orders also include products with customer-provided or customer-directed graphics, logos, slogans, names, etc.

6. SHIPMENT & RISK OF LOSS - All shipments are F.O.B. EZ Flex's facility ships freight prepaid or freight collect to the destination. Unless otherwise agreed in writing, EZ Flex may, in its sole discretion, select the shipping method, the carrier and the applicable freight charges. If you desire to pick up the Products at EZ Flex's facility, you must contact EZ Flex to arrange a mutually convenient time for pick up. You shall indemnify and hold harmless EZ Flex from and against any claims, damages or liabilities suffered by EZ Flex resulting from any acts or omissions of the carrier. Title to the Products and risk of loss to the Products shall pass to the you at the point of shipment from EZ Flex's facility, whether freight prepaid or freight collect to destination, regardless of which party selects the carrier and arranges the freight charges or particulars of shipment. Risk of loss for damage or delay in transit shall be borne by you. You shall file and pursue any claims directly with the carrier related to loss, damage or delay in transit, and you shall not assert such claims against EZ Flex or deduct from any amounts owed to EZ Flex.

7. DELIVERY - Delivery dates, if provided, are approximate. The failure to meet an indicated delivery date will not constitute a breach of this Agreement. In no event shall EZ Flex be liable for any claims for labor or for any special, indirect, incidental, or consequential damages including, but not limited to, demurrage charges, cost of shipment, downtime, lost profits (whether direct or indirect), lost sales, or any other damages resulting from delay in delivery. If EZ Flex's production or delivery is delayed, EZ Flex may allocate production and delivery among its customers in a manner it deems reasonable. **ACCEPTANCE OF THE PRODUCTS OR SERVICE ITEMS BY YOU UPON DELIVERY SHALL CONSTITUTE A WAIVER BY YOU OF ANY CLAIM FOR DAMAGES ON ACCOUNT OF DELAY IN DELIVERY OR PERFORMANCE.**

8. TAXES - Prices do not include any taxes or other assessments. All taxes, duties, fees, assessments or other charges of any kind imposed by any federal, state, municipal or other governmental authority which EZ Flex is required to collect or pay with respect to the provision, production, sale or shipment of the Products shall be your responsibility. You agree to pay all such taxes and further agrees to reimburse EZ Flex for any such payments made by EZ Flex.

9. YOUR SAFETY - Any activity involving motion, height, speed, rotation, and/or physical contact creates the possibility of serious injury, including temporary or permanent paralysis and even death from landing or falling on the neck, head, back, or other parts of the body. EZ Flex's Products do not eliminate these hazards. You assume a risk of serious injury by using the Products. Use of the Products without proper supervision, proper training, proper equipment can be dangerous. Inspect the Products prior to and after any use. Inspect the Products for damages before use. Damaged Products should be repaired or replaced immediately. If in doubt, do not use the Products.

10. NON-CONFORMING GOODS - No claim for damages for non-conforming Products will be allowed unless you provide EZ Flex with written notice of the claim within thirty (30) days of the date the Products were delivered to you. To assert such a claim, you must (a) at EZ Flex's request, return to EZ Flex 100% or, if agreed by EZ Flex, a lesser but still statistically relevant percentage of the Products claimed to be non-conforming, and (b) provide reasonable evidence to support the claim, including, if requested by EZ Flex, results of investigations performed by you. Products for which damages are claimed shall not be returned, repaired, or discarded without EZ Flex's prior written consent. If requested by EZ Flex, the non-conforming Products must be returned to EZ Flex at your expense within ten (10) days of EZ Flex's request. No claims, rejections or returns for non-conforming Products will be permitted unless you cooperate in full with EZ Flex to determine the cause of the non-conformance.

11. LIMITED WARRANTIES - EZ Flex offers the following limited guarantees on the Products as follows:

- 5 YEARS for vinyl mats for wrestling, fitness and martial arts;
- 3 YEARS for carpet mats for tumbling, gymnastics, cheerleading, rock climbing, and fitness;
- 1 YEAR for any home/personal mats;
- 1 YEAR for any custom logos/designs on carpet mats.

EZ Flex warrants the Products to be free from defects in materials or workmanship during normal use and installation. The guarantees stated above are valid only if the Products have been subjected to normal use for the purpose for which the mats were designed, have not been subject to vandalism, misuse, neglect, or accident, have not been subjected to addition or subtraction of pieces, and have not been modified or altered by persons other than EZ Flex or its designees in any respect which, in the judgment of EZ Flex, affects the condition or operation of the Products. This warranty does not cover cosmetic items (scratches, scuff marks, denting or compression from incorrect storage, marring, fading, discoloring, weathering), normal wear and tear, or damage due to neglect. The above warranties commence on the date of EZ Flex's shipment. Should any failure to conform to any of the expressed guarantees occur within the applicable guarantee period, EZ Flex shall, upon notification as outlined below of the

defect, correct such nonconformity, either by repairing the defective Products or by making available a replacement at the discretion of EZ Flex. EZ Flex shall deliver the repaired or replacement Products to you free of charge, including all freight charges, if such a warranty claim is accepted.

EXCEPT AS EXPRESSLY SET FORTH ABOVE OR AS STATED WITHIN EZ FLEX'S QUOTATION, ORDER ACKNOWLEDGEMENT, OR A SEPARATE WRITTEN AND SIGNED AGREEMENT, EZ FLEX MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED.

To submit a claim under the limited warranty applicable to the Products you have purchased, follow these instructions:

- Notify EZ Flex within thirty (30) days of the date when you first identified a possible issue with your Products.
- You must notify EZ Flex by sending a notice of your claim to warranty@ezflexmats.com. DO NOT PHYSICALLY MAIL ANYTHING TO EZ FLEX. Any notification other than an email to the address above will not constitute a valid claim under this warranty.
- You must include the following information/materials with your warranty claim:
 - Original date of purchase (referencing an order number is ideal).
 - A brief description of the nature and basis of your claim in plain English.
 - Photograph(s) of the damage. The clearer, the better. We need to see what you're talking about!

Upon receipt of a properly submitted claim, EZ Flex will notify you of its position and decision regarding your claim within thirty (30) days. You will not receive a notification that EZ Flex has received your claim.

12. LIMITATION OF LIABILITY - EZ FLEX'S LIABILITY, WHETHER IN CONTRACT, IN TORT, UNDER WARRANTY, IN NEGLIGENCE, OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS, AND UNDER NO CIRCUMSTANCES SHALL EZ FLEX BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, DEMURRAGE CHARGES, COSTS OF SHIPMENT, DOWNTIME, LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOST SALES, DAMAGE TO EQUIPMENT, OR CLAIMS OF YOUR CUSTOMERS, IF ANY, OR OTHER THIRD PARTIES FOR DAMAGES OR PENALTIES, WHETHER OR NOT YOU ARE LEGALLY OBLIGATED TO PAY THEM. EZ FLEX'S LIABILITY HEREUNDER SHALL BE LIMITED TO EITHER: (1) THE OBLIGATION TO REPAIR OR REPLACE, AT EZ FLEX'S SOLE DISCRETION, ONLY THOSE PORTIONS OF THE PRODUCTS PROVEN TO HAVE FAILED TO MEET IN MATERIAL RESPECT THE SPECIFICATIONS ON EZ FLEX'S QUOTATION, ORDER ACKNOWLEDGEMENT, OR SEPARATE WRITTEN AND SIGNED AGREEMENT AT THE TIME OF SHIPMENT FROM EZ FLEX'S FACILITY, OR (2) REPAYMENT OF OR CREDIT AGAINST THE PURCHASE PRICE OF THE PRODUCTS. YOU AND EZ FLEX EXPRESSLY AGREE TO THIS ALLOCATION OF RISK AND THE PRICE STATED FOR THE PRODUCTS IS CONSIDERATION FOR THE LIMITATION ON EZ FLEX'S LIABILITY. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXCLUSIVE REMEDY DESCRIBED IN THIS SECTION FAILS ITS ESSENTIAL PURPOSE.

13. ASSIGNABILITY - You have no right to assign this Agreement to any third party without EZ Flex's prior written consent. EZ Flex may assign this Agreement to a third party at its sole discretion.

14. SETOFF - EZ Flex shall have the right to credit toward the payment of any monies that may become due to you hereunder any amounts which may now or hereafter be owed to EZ Flex. You shall pay EZ Flex's invoices without discount, setoff, or reduction for any reason, including asserted warranty claims or other claims of non-performance by EZ Flex.

15. WAIVER - No waiver of any claim or right arising under this Agreement will be effective unless the waiver is in writing and signed by the waiving party.

16. GOVERNING LAW & FORUM SELECTION - This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas, without regard to conflict of law principles.

17. DISPUTE RESOLUTION - Any dispute, controversy or claim arising out of or relating in any way to this Agreement or the Products, including, without limitation, any dispute concerning the construction, validity, interpretation, enforceability or breach of this Agreement, shall be exclusively resolved by binding arbitration administered by the American Arbitration Association ("AAA"). The arbitration shall be conducted by one arbitrator. If the Parties are not able to agree upon the selection of an arbitrator within twenty (20) days of commencement of an arbitration proceeding by service of a demand for arbitration, the arbitrator shall be selected by the AAA. The arbitration shall be conducted in accordance with the then-existing Commercial Arbitration Rules of the AAA if the amount in controversy exceeds \$5,000.00. In the event the amount in controversy, excluding any claimed interest, arbitration fees, expenses, and/or attorneys' fees is \$5,000.00 or less, the arbitration shall be conducted in accordance with the then-existing Consumer Arbitration Rules of the AAA. The arbitration shall be conducted in Fort Worth, Texas. The laws of the State of Texas shall be applied in any arbitration proceedings, without regard to principles of conflict of laws. The arbitration shall be conducted in the English language. Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of all parties. The arbitrator shall have no authority to award punitive/consequential/special/indirect damages. The arbitrator shall be entitled to issue injunctive and other equitable relief. The cost of the arbitration proceeding and any proceeding in court to confirm or to vacate any arbitration award, as applicable (including, without limitation, reasonable attorneys' fees and costs), shall be borne by the unsuccessful party, as determined by the arbitrator, and shall be awarded as part of the arbitrator's award. It is specifically understood and agreed that any party may enforce any award rendered pursuant to the arbitration provisions of this Agreement by bringing suit in any court of competent jurisdiction. Each party shall pay its own proportionate share of arbitration fees and expenses. The arbitrator shall be entitled to award the foregoing arbitration and administrative fees and expenses as damages in his/her discretion.

18. FORCE MAJEURE - EZ Flex shall not be responsible for cancellation or delay in delivery or performance resulting, in whole or in part, from causes beyond its reasonable control, including, but not limited to, acts of God; acts of you; strikes or other labor disturbances regardless of whether or not EZ Flex is capable of settling such strike or disturbance; facility conditions; temporary or permanent facility closures; equipment failure; inability to obtain fuel, material, or parts; war; acts of terrorism; sabotage; riot; delays in transportation; repairs to equipment; natural disasters; epidemics; floods; fires; action of governmental authorities (valid or invalid); severe weather conditions; accidents; explosions; failure of or inability to obtain power, raw materials, suppliers, labor, equipment or transportation; a court or administrative injunction or order; or any other contingency the non-occurrence of which was a basic assumption on which this Agreement was made.

19. NO THIRD-PARTY RIGHTS - This Agreement is for the sole and exclusive benefit of EZ Flex, you, and their permitted successors and assigns. Nothing expressed or referred to in this Agreement will be construed to give any other person any legal or equitable right, remedy or claim under or with respect to this Agreement.

20. ENTIRE AGREEMENT - Except as otherwise agreed to by EZ Flex in writing, the terms and conditions set forth herein, together with EZ Flex's quotation, order acknowledgement, or a separate written and signed agreement, as applicable, shall constitute the complete and final agreement between EZ Flex and you, completely superseding any prior oral or written communications.