

**1. CONTRACT.** Buyer's purchase order, including all of its terms and conditions, together with any documents of Buyer or supplemental terms and conditions of Buyer stated or referenced on the face of the purchase order, constitutes the complete, final and exclusive statement of the contract between Buyer and Seller. Acceptance of Buyer's order is expressly limited to these terms and conditions. Additional, different or inconsistent terms and conditions proposed by Seller in its quotation, acknowledgement or acceptance of this purchase order or otherwise, are objected to and rejected. Buyer's acceptance of goods or services from Seller shall not be deemed to be an acceptance of any such conditional, different, or inconsistent terms and conditions. No changes or additions of any kind to the terms and conditions stated herein, or waiver of any kind shall be binding on Buyer unless agreed to in writing signed by an authorized representative of Buyer. Commencement of performance by Seller shall be an acceptance of all of Buyer's terms and conditions.

**2. SHIPPING AND BILLING.** Seller agrees to comply fully with all shipping and billing instructions of Buyer. Goods are to be prepared for shipment with due care but no charge shall be allowed for cartage, packing or other handling activities unless agreed upon in writing. All goods must be shipped in time to meet delivery schedules (time is of the essence) and at the most advantageous rates unless otherwise authorized in writing by the Buyer. Invoices subject to cash discount shall be mailed on the day they are dated and, if not, the discount period begins on the day received by Buyer's accounting department. If a billing of lading or express receipt is not attached to the invoice, the discount period shall begin when documents are received by Buyer's purchasing department. All expenses incurred by Seller's failure to furnish necessary documents shall be charged to and paid by Seller. Buyer shall have no liability for goods delivered to it which are in excess of quantities specified in delivery schedules and reserves the right to return at Seller's risk and expense all goods received by it in advance of the wanted date for subsequent delivery on the wanted date. Seller shall bear all risk of loss or damages to all goods ordered until they are actually received by the Buyer.

**3. PRICE.** Seller warrants that the prices quoted to Buyer are the lowest that these or similar goods or services are sold by Seller to others and that they are complete and that no additional charges of any type shall be added without Buyer's express written consent in advance. Seller agrees that any price reduction for these or similar goods or services after placement of this order but prior to payment will be applicable to this order.

**4. CHANGES.** Buyer shall have the right at anytime prior to the complete delivery of the goods or services to make changes therein and changes in packaging, time, place and schedule of delivery and method of transportation and Seller agrees to accept such changes. If any such changes cause an increase or decrease in cost or the time required for performance, and an itemized claim for adjustment is made within thirty (30) days of the notice of change, and equitable adjustment will be made and this agreement modified in writing in accordance with the adjustment.

**5. INSPECTION AND QUALITY ASSURANCE.** All goods and services ordered by Buyer shall be Subject before delivery to inspection, tests, and audits by Buyer at

reasonable times and places. Seller agrees to provide access for Buyer to all facilities at all reasonable times for such inspection, tests, and audits, and, at no additional cost, to provide all tools, equipment, and assistance reasonably necessary. Inspection, tests, or audits before delivery to Buyer do not constitute final acceptance nor do they or any other inspecting, testing, or auditing by Buyer, or failure of Buyer to do so, relieve Seller from exclusive responsibility for furnishing goods or services in full conformance with this order. Seller warrants that it has and will maintain an adequate quality assurance and/or control program for the goods or services ordered and that it makes and maintains adequate authenticated quality control and/or assurance reports, records, certificates, affidavits, and the like relating to the goods or services ordered. Seller agrees that upon request and at no additional charge, it will promptly furnish authenticated copies thereof as well as applicable certificates of conformance and/or compliance acceptable to Buyer at the time of or after delivery.

**6. REJECTION.** Goods and services of Seller shall be received subject to inspection and approval by Buyer after delivery. Buyer may give Seller notice of rejection or revocation of acceptance ('rejection' herein), notwithstanding any payment, passage of title, approval, prior test or inspection. No inspection, approval, test delay or failure to inspect or test or failure to discover any defect or other nonconformance shall relieve Seller of any obligations hereunder or impair or waive any right or remedy of Buyer. If it is Buyer's judgment that they do not conform with the requirements of the order, Buyer shall have the right to reject them and, in addition to its other rights and remedies, Buyer shall have, without limitation, all of the following rights: (1) to return them to Seller for reimbursement, credit, replacement, or corrections as Buyer may direct; (2) to correct, rework, and/or replace them with the additional cost to be charged to and paid by Seller; and (3) to hold them at Seller's risk and expense for disposal or correction according to Seller's instructions. Any goods rejected by Buyer that are returned to Seller shall be at Seller's risk and expense with the cost of packaging, handling, inspection, examination, transportation and the like incidental thereto, to be charged to and paid by Seller. Such goods shall not thereafter be tendered to Buyer for acceptance unless the previous rejection and requirement of correction are disclosed to Buyer in writing.

**7. TERMINATION.** Buyer has the right to terminate this order and contract for convenience, in whole or in part, at any time upon written notice to Seller. Unless such termination is due to default of Seller or failure of Seller to assure adequate performance, Buyer shall pay Seller on a pro rata basis for work completed as of the date of termination and upon such payment all equipment, materials, work-in-progress, finished goods, drawings, information, special tooling, and other things for which Buyer has paid shall at Buyer's option become the property of Buyer and be released by Seller to Buyer upon demand for pick-up and removal. The provisions of this clause are without prejudice to any other rights or remedies of Buyer including those resulting from default by Seller.

**8. CANCELLATION.** Buyer shall have the right to cancel this order and contract, in whole or in part, if the goods or services are in Buyer's judgment non-conforming or defective or not delivered as scheduled, or if Seller fails to comply with or fulfill any of

the terms and conditions of the order with Buyer's shipping and billing instructions, or if in Buyer's opinion the credit or ability of Seller to perform becomes impaired, whereupon Buyer shall have the continuing right to obtain the goods or services ordered from another source with any resulting increase in cost thereof charged to and paid by Seller, all without prejudice to any other rights or remedies of Buyer and in addition thereto.

**9. PAYMENTS.** Payments by Buyer of an invoice from Seller does not constitute acceptance of the goods or services covered by the invoice. If the work covered by this order may give rise to mechanics' liens or the like, payment shall not be due and the cash discount period shall not commence until Seller has delivered to Buyer a complete release of all liens arising out of the work or receipt in full covering all labor and materials for which a lien could be filed or a bond satisfactory to the Buyer indemnifying it against any lien.

**10. CONFIDENTIALITY.** Seller agrees not to publicize the fact that Buyer has contracted with Seller and not to disclose any details or other information about the order without Buyer's written permission. Unless otherwise known to the public, all information disclosed by Buyer to Seller is confidential and proprietary and Seller agrees that it shall not be disclosed or used except for the purpose of performing this agreement. All things (such as drawings, documents, etc.) containing such information are the property of Buyer and are to be delivered to it upon demand. Seller agrees that no information disclosed by it to Buyer shall be confidential unless due notice thereof is given in advance to and accepted by Buyer in writing.

**11. WARRANTIES.** Seller warrants that all goods and services furnished under the order will conform to applicable specifications, instructions, drawings, data, samples, standards, and regulations, will be merchantable, of best quality, material and workmanship and free from all defects, will be as described and advertised and fit for the intended purposes, and will be free from all liens and encumbrances. These warranties are in addition to all other warranties, expressed, implied or statutory. Seller shall indemnify, defend and hold Buyer fully harmless from any breach of these warranties and this shall be without prejudice to any other rights or remedies of Buyer. Limitations on Buyer's remedy (or disclaimers of warranties) in documents of Seller, or otherwise, shall not be effective and are rejected. All warranties and all provisions of this clause shall survive inspection or acceptance of payment for, and use of the goods or services ordered and completion, termination, or cancellation of the contract, and shall run to Buyer, its customers, successors, and assigns, and to users of the goods or services.

**12. BUYER'S PROPERTY AND PARTS.** All property of any kind supplied by or paid for by Buyer shall be and remain Buyer's property and Seller agrees to be accountable for it and to maintain it in good condition and repair except to the extent that it is integrated into goods furnished by Seller to Buyer under this order. Parts of Buyer which have been or are to be processed by Seller are consigned to Seller for the work specified and remain Buyer's property. Property and parts of Buyer shall not be used for any purpose except to satisfy this or other orders of Buyer to Seller. All Buyer's property and parts while in Seller's custody or control shall be held at Seller's risk, free of all liens, encumbrances, or

security interests of Seller or third parties, and shall be kept insured by Seller at Seller's expense in an amount equal to replacement cost with loss payable to Buyer. Seller agrees to hold harmless, defend, and indemnify Buyer against all loss or damage to such property or parts against claims of loss or damage arising out of such property of parts while they are in Seller's custody or control. All property and parts are Subject to removal by Buyer at any time and to return upon Buyer's request.

**13. INDEPENDENT CONTRACTOR.** Seller is and shall remain an independent contractor. No employee, agent, or representative of Seller or its subcontractors shall be deemed to be an employee of Buyer. Seller shall provide all safeguards and take all necessary precautions in connection with work and services performed by or for it relating to this purchase order to prevent the occurrence of any accident, injury, death, loss, or damage to any person or property and shall be solely responsible therefore. Seller warrants that all work and services relating to this purchase order will be done in a safe, proper, and workmanlike manner and in compliance with all applicable codes, regulations, laws, standards and specifications concerning safety, performance, and otherwise and, without limitation, including work and services on or to premises controlled by Buyer and to or with property or parts of Buyer. Seller agrees to indemnify, defend and hold Buyer harmless from all claims based on injury to or by Seller's employees, agents, or representatives or those of its subcontractors.

**14. INDEMNIFICATION.** Seller shall defend, indemnify, and hold harmless the Buyer, its employees, agents, representatives, customers, and users of Seller's goods and services from and against all demands, claims, damages, loss, or liabilities of every kind and nature (including attorney fees and recall costs) based upon any allegations of, or resulting from, any defect or non-conformity in the goods or services purchased by Buyer, or any default or breach of this contract by Seller, or any act or omission of Seller, its agents, employees, or representatives, or those of its subcontractors. Seller agrees to indemnify, hold harmless, protect and defend the Buyer, its successors and assigns, its customers and the users of its products against all suits and from all claims, demands, judgments, settlements, costs, losses, damages, and attorney fees for actual or alleged infringement of patents, trademarks, copyrights, trade secrets, or other actual or alleged rights of third parties in connection with the goods or services of Seller, provided that they are used as normally intended and are not made or performed to Buyer's own specifications. All obligations of Seller to indemnify, hold harmless, protect and defend are in addition to warranty obligations and all other rights or remedies of Buyer and survive acceptance and use of the goods or services, payment, and completion, termination, or cancellation of the contract.

**15. COMPLIANCE WITH LAWS.** Seller agrees to ascertain and comply with all federal, state and local laws, regulations, and orders applicable to the production, sale, and delivery of the goods and services covered by this contract. Upon request, Seller will furnish Buyer with certificates of compliance with them. Seller shall certify that the goods or services covered by its invoices are produced and/or rendered in accordance with the Fair Labor Standards Act of 1938, as amended. Unless exempted, Seller also

certifies that they shall be produced in compliance with all applicable non-discrimination laws, regulations, and orders, including those relating to the provisions of Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity), 38 USC Chapter 42, 4212 (Vietnam Era Veterans Readjustment Assistance Act), Section 503 of the Rehabilitation Act of 1973 (Handicapped Regulations), and the implementing regulations found at 41 CFR 60-1 & 2, 41 CFR 60-350, and 41 CFR 60-741, respectively, are hereby incorporated by reference.

**16. TOXIC AND HAZARDOUS SUBSTANCES.** Seller warrants: (1) that any chemical or substance supplied to Buyer for this purchase order is on the Toxic Substance Control Act inventory or that the pre-manufactured notice requirements thereof have been satisfied and the chemical or substance is lawfully available for sale and use; (2) that chemicals or substances supplied by it will be properly packaged and will have all appropriate warning labels, instructions for use, and notices, and if supplied in bulk it will give Buyer a supply of such warning labels, instructions, and notices for use in Buyer's plant; (3) that it will supply with or before delivery and at any time upon Buyer's request, all information known to it with respect to potential hazards involved in the handling, use, storage, disposal, or transportation of the chemicals or substances, and all data on the possible toxic or harmful effects and what precautions should be taken to eliminate or reduce risks to a minimum; and (4) that it will ascertain and furnish all information needed by Buyer to comply with all safety-related laws and regulations (including, without limitation, those relating to applicable right-to-know laws), and with laws and regulations regarding composition, ingredients, or otherwise, including upon written request promptly furnishing to Buyer a list of all ingredients therein. At Buyer's request, Seller agrees that it will accept the return of unused toxic or hazardous chemicals or substances furnished under this purchase order.

**17. ASSIGNMENTS AND SUBCONTRACTING.** No part of this order or payments to be made by Buyer may be assigned or subcontracted without prior written approval of Buyer. Such approval shall not relieve Seller of any of its obligations under this contract, or otherwise, and it shall remain fully responsible for compliance with all the terms and conditions.

**18. NOTIFICATIONS.** Seller agrees to immediately notify Buyer of any actual or possible safety problems with goods or services furnished by it. Seller also agrees to give Buyer reasonable advance notice of potential material shortages, labor disputes, insolvency or other matters that might delay or interfere with its performance.

**19. LIMITATION ON BUYER'S LIABILITY.** In no event shall Buyer be liable for consequential, incidental, or special damages of any kind or for damages in excess of the price allowable to the portion of the goods or services on which the claim is based. Action on any claim against Buyer must commence within one year after the cause of action has accrued.

**20. OTHER PROVISIONS.** The provisions of this purchase order set forth the entire agreement between Buyer and Seller. Provisions of the Uniform Commercial Code apply to the entire agreement and to both goods and services of Seller. Buyer's failure to assert any right is not a waiver of it or any other right. Time is of the essence. All money due to Seller is subject to deduction or set-off by Buyer to cover any counterclaim arising out of this or any other transaction with Seller. If the development of goods or the services performed by Seller and paid for by Buyer under this order result is patentable, copyrightable, or proprietary property, all rights, title, and interest thereto shall belong to and be assigned to Buyer, unless otherwise specified in writing. The remedies provided herein for Buyer are cumulative and in addition to any other remedies provided in law or equity or by statute.