

**TERMS AND CONDITIONS**

These terms and conditions are incorporated into each purchase order issued by Buyer as if fully restated in such purchase order and shall be accepted by Seller by shipment of goods, performance of services, commencement of work on goods, written acknowledgement, or any other conduct of Seller which recognizes the existence of a contract pertaining to the subject matter hereof. BUYER OBJECTS IN ADVANCE TO THE INCLUSION OF DIFFERENT TERMS PROPOSED BY SELLER IN ITS ACCEPTANCE OR ACKNOWLEDGMENT OF THE PURCHASE ORDER. THE INCLUSION OF SUCH TERMS BY SELLER WILL BE OF NO SIGNIFICANCE, SUCH TERMS WILL NOT BE CONDITIONS OR ADDITIONAL TERMS TO THE PURCHASE ORDER, AND BUYER'S ACCEPTANCE OF SELLER'S GOODS SHALL NOT BE DEEMED AS ACCEPTANCE OF SUCH TERMS UNLESS THEY ARE ACCEPTED IN WRITING BY BUYER, NOTWITHSTANDING BUYER'S ACCEPTANCE OR PAYMENT FOR ANY SHIPMENT OF GOODS OR SIMILAR ACT OF BUYER. Unless otherwise stated on the face of a purchase order, the purchase order is Buyer's offer to Seller and does not constitute an acceptance by Buyer of any offer to sell or proposal by Seller. Any reference herein to any such offer or proposal by Seller is solely for the purpose of incorporating the description and specification of the subject matter thereof into a purchase order and then only to the extent that such description and specifications appear on the face of an order.

**1. DELIVERY AND SHIPPING**

All goods must be shipped at the most advantageous rates unless otherwise authorized in writing by Buyer. Any extra expense in effecting delivery of goods not so shipped will be charged to Seller. Adequate scheduling of shipment of goods shall be made by Seller in the delivery dates included within the purchase order and is essential to Buyer. Seller shall not, however, make material commitments or production arrangements in advance of reasonable flow time needed to meet Buyer's delivery schedule. No claims shall be allowed for such advance effort in case of change or termination. Shipments shall be strictly in accordance with Buyer's delivery schedule, and in the event of late deliveries, Buyer may charge Seller a late fee of up to 5% of the purchase price of the goods. If Seller encounters or anticipates difficulty in meeting the delivery schedule, Seller shall immediately notify Buyer in writing, giving all details of such delay; provided, however, that the receipt of such information shall be for information purposes only and shall not be considered a waiver by Buyer of any delivery schedule or of any rights or remedies provided by law or the purchase order. Three late deliveries will result in on-site evaluation of Seller's process and where improvements must be made to insure on-time delivery at all times (at Seller's cost). Buyer reserves the right to return, at Seller's expense, all goods received in advance of delivery schedules or to hold the goods and pay Seller's invoices on normal maturity after the scheduled delivery date. Buyer assumes no obligation for materials shipped in excess of quantity shown on the purchase order.

**2. FORCE MAJUERE**

Neither party shall be liable for damages resulting from delays arising out of causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of the Government, fires, floods, strikes, freight embargoes, and unusually severe weather, nor shall such delay affect the remainder of the purchase order. Seller will notify Buyer in writing immediately, but in no event later than five (5) days after the beginning of any cause for delay, in the absence of which Seller waives its right for an excuse for such delay. In the event force majeure affects Seller and continues for a period in excess of thirty (30) days, Buyer may, at its option, use a replacement supplier and Seller shall reimburse Buyer for the difference in price plus reasonable costs incurred by Seller. Nothing herein shall limit Buyer's right to terminate the purchase order in accordance with Section 12 (Stop Work Order), subject to its obligations to compensate Seller as provided therein. This Section shall not relieve Seller of its obligations where such force majeure event(s) affect assignees, subcontractors or third party providers selected by Seller, unless Buyer expressly directed the use of that particular assignee, subcontractor or third party provider.

**3. PACKING**

An itemized list of contents must be placed in each package bearing Buyer's purchase order number and plant location. No charge will be allowed by Buyer for cartage or packing unless agreed upon before hand in writing. All expenses incurred by Seller's failure to furnish necessary shipping documents shall be charged to Seller. Seller agrees to prepare and properly box or crate goods for shipment so as to prevent damage in transit, to comply with Buyer's shipping instructions and/or routings.

**4. INVOICING, PRICE AND PAYMENT**

Packing lists in DUPLICATE and itemized invoices, each bearing Buyer's purchase order number must be mailed on day of shipment. BILL OF LADING OR EXPRESS RECEIPT MUST BE ATTACHED TO YOUR INVOICE. Buyer's purchase order number must immediately follow Buyer's name. Invoices subject to cash discount should be mailed on the day they are dated. If they are not, discount period will begin on the day bills are received by Buyer's Purchasing Department. Failure to attach Bill of Lading or Express Receipt to your invoice or errors or omissions in the invoices will delay payment and discount period will begin when the corrected documents are received. Seller acknowledges that the goods covered by the purchase order will be produced in compliance with Sections 6, 7, and 12 of the Fair Labor Standards Act of 1938, as amended, and regulations and orders issued by the United States Department of Labor thereunder. Except as otherwise stated on the face of the purchase order, the terms of payment are net one hundred twenty (120) days from the invoice date. An order may not be invoiced at a higher price than shown on an order and Buyer must authorize any changes to the price in writing. Seller warrants that prices charged for the goods are not higher than those charged to any customer, including the government, for goods of like grade and quality and similar or lesser quantities.

**5. TAXES**

Seller shall pay all taxes and/or duties of every kind imposed, levied, or assessed by any governmental authority with respect to the goods or work, including taxes for labor, materials and equipment utilized in connection therewith and all sales, use, personal property, excise and payable taxes, unless otherwise itemized on the face of the purchase order. Seller shall indemnify Buyer against any and all such taxes and/or duties.

**6. INSPECTIONS AND TESTING**

Buyer shall have the right to expedite, inspect and test any of the goods or work covered by the purchase order prior to shipment. Seller shall inspect all goods prior to shipment and all goods are also subject to Buyer's inspection and approval on arrival. Seller shall be responsible for all costs of reasonable inspection incurred by Buyer if defects are identified from such inspection. If rejected, they will be held for disposal at Seller's risk. Such inspection, or the waiver thereof, however, shall not relieve Seller from full responsibility for furnishing goods and work conforming to the requirements of the purchase order, nor prejudice any claim, right or privilege Buyer may have because of the use of defective or unsatisfactory goods or work. Buyer shall have the right to modify the price and terms if the goods do not conform to the requirements of the purchase order (including, but not limited to, capacity and/or quality).

**7. WARRANTY**

All goods furnished by Seller and any services or installation relating thereto pursuant to the purchase order shall (a) conform to all specifications, drawings, samples or other descriptions furnished, specified or adopted by Buyer and to all other requirements of the purchase order, (b) be free from defects in title and any claims thereof (c) be warranted to be of the best quality of their respective kinds and to be free of defects in design, workmanship, or material, and (d) when known to Seller fit for their intended purposes. In the event of breach, Seller shall take all necessary actions, at Seller's expense, to correct such breach in the most expeditious manner possible. If the goods consist of component parts and/or subsystems, Seller will state in writing that the application of the component and/or subsystems meet the design intent for which they have been developed for both the application in the tooling system and its operation in its final environment at both design and tryout. Should Seller fail to correct any such breach in a timely manner, Buyer may proceed, at Seller's expense, to perform the necessary corrective work. This warranty shall also inure to the benefit of Buyer's customer or user of the goods (the "Customer") and such warranty together with Seller's service warranties and guaranties, if any, shall survive for a period of thirty (30) months from the date of shipment to the Customer.

**8. ASSIGNMENT AND SUBCONTRACTING**

Seller shall not assign or subcontract any portion of the purchase order without the prior written approval of Buyer. Proceeds due or to become due under the purchase order may be assigned by Seller only with the written consent of Buyer and provided that payment to an assignee of any claim related to the purchase order shall be subject to all applicable defenses, reductions and setoffs.

**9. CHANGES**

Buyer may at any time make changes in shipping and packing instructions, quantities, drawing, designs, specifications, place of delivery and/or delivery schedules, for which an appropriate adjustment to the purchase order shall be made, unless such change is due to the fault of Seller. Any claim for adjustment under this Section shall be deemed waived unless asserted within ten (10) days from the date of receipt by Seller of the change order. Any claim by Seller for adjustment under this Section must be approved by Buyer in writing before Seller proceeds with such change.

**10. TERMINATION FOR DEFAULT**

Buyer may terminate all or any part of the purchase order by giving notice of default to Seller, if Seller: (a) refuses or fails to deliver the goods within the time specified; (b) fails to comply with any of the provisions of the purchase order or so fails to make progress as to endanger performances hereunder; (c) becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency or the relief of debtors; or (d) fails to provide adequate assurances of performance upon request by Buyer. In the event of a termination for default, Buyer's liability shall be limited to the payment for goods delivered and accepted by Buyer under the purchase order.

**11. TERMINATION FOR CONVENIENCE**

Buyer may terminate the purchase order at any time for its convenience, in whole or in part, in which event, Buyer's sole obligations shall be to reimburse Seller for: (a) those goods actually shipped and accepted by Buyer up to the date of termination, and (b) costs incurred by Seller for unfinished goods, which are specifically manufactured for Buyer and which are not standard products of Seller, as of the date of termination, plus a reasonable profit thereon. In no event shall Buyer be responsible for loss of anticipated profit nor shall reimbursement exceed the purchase order value (including amounts already paid by Buyer to Seller).

**12. CUSTOMER PAYMENT**

Buyer is purchasing, and Seller acknowledges that Buyer is purchasing, the goods under the purchase order to fulfill Buyer's sale and delivery obligations to the Customer. Notwithstanding anything to the contrary in the purchase order (including these terms and conditions) or in any other agreement between Buyer and Seller, Buyer (a) has no obligation to pay or reimburse Seller under the purchase order or these terms and conditions unless Buyer first receives payments from the Customer, and (b) shall pay or reimburse Seller for goods and/or services the later of (i) the payment terms stated in the purchase order or (ii) within thirty (30) days of Buyer's receipt of payment from the Customer and in proportion to the payment Buyer receives from the Customer unless, in Buyer's sole discretion, Buyer elects to pay or reimburse Seller before Buyer receives payment from the Customer.

**13. STOP WORK ORDER**

Buyer may at any time by written notice to Seller stop all or any part of the work called for by the purchase order. Upon receipt of such notice, Seller shall take all reasonable steps to minimize the incurrence of cost during the period of work stoppage. Buyer may subsequently either cancel the stop work order resulting in an equitable adjustment in the delivery schedule and/or the price, or terminate the work in accordance with the provisions of the purchase order (including these terms and conditions).

**14. WAIVER OF LIENS/SECURITY INTERESTS**

Seller expressly waives any lien or security interest which Seller might otherwise have on any goods for any amounts owing by Buyer or Buyer's customer, including for goods shipped or services provided by Seller for work done or value added to the goods. The previous waiver includes, but is not limited to, molders, builders and artisan liens and applies regardless of whether such liens arise by statute, regulation or common law.

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### 15. TOOLING

Any patterns, drawings, designs, samples, dies, molds, jigs and fixtures furnished to Seller by Buyer, and other property specifically paid for by Buyer and/or furnished or made available to Seller by Buyer (collectively, the "Tooling"), are property of Buyer or its customer(s) and subject to removal by Buyer as provided herein, and shall be used only in filling Buyer's orders. Seller shall bear the risk of loss of, and damage to, the Tooling. Seller shall store all Tooling away from outside elements, and perform all maintenance and repair at Seller's sole risk. Seller agrees to immediately return all Tooling to Buyer or as Buyer may direct, upon termination or completion of the purchase order or on Buyer's demand and acknowledges that it has no title in the Tooling and shall not encumber it in any manner whatsoever, and hereby waives any lien claims it may have in the Tooling. The Tooling shall be delivered to Buyer promptly and in accordance with Buyer's instructions, free and clear of any liens and without payment of any amount by Buyer. Seller acknowledges that its failure to return the Tooling to Buyer on demand shall cause Buyer to sustain irreparable harm warranting immediate and injunctive relief, and further agrees that in the event of such failure, Seller shall pay liquidated damages to Buyer in the amount of \$5,000 per day, per Tooling item, plus all legal fees and costs associated with Buyer's enforcement of this Section and recovery of the Tooling.

### 16. INTELLECTUAL PROPERTY

Seller agrees to promptly indemnify and hold harmless Buyer, its officers, employees, agents, representatives and any of its customers buying or using the goods (whether they are further processed or not, and regardless of who designed and set the specifications for same) and services specified herein from any loss, damage, or injury, including attorney fees, arising out of an assertion, claim or suit at law or equity for actual or alleged infringement of any United States or foreign patent, copyright, trademark, trade secret or other intellectual property right, by reason of the buying, selling offering for sale, using, importing or renting the goods or services supplied under the purchase order. Seller will immediately pay all fees, costs and expenses incurred by Buyer, its officers, employees, agents, representatives and customers in defense and investigation of any such intellectual property lawsuit and/or threat thereof, including incidental damages and any developments of goods to replace those accused. Buyer shall have sole authority to select defense attorneys, determine defense strategy and settle any intellectual property suit brought against Buyer (or Seller if such suit may impact the purchase, use or resale of goods and services under the purchase order). Seller must promptly inform Buyer of any such threatened or actual lawsuits.

### 17. CONFIDENTIAL INFORMATION AND USE OF BUYER'S NAME

Seller agrees not to make any use of data, designs, drawings, specifications and other information furnished to it by Buyer, or developed, conceived or created by Seller under the purchase order except for the performance of the purchase order, and Seller further agrees not to disclose such data, designs, drawings, specifications and other information to others except for the performance of the purchase order under similar restrictions against use and disclosure. Upon completion or termination of the purchase order, Seller shall return to Buyer all such data, designs, drawings, specifications and other information, including copies made by Seller. The purchase order is confidential between Buyer and Seller, and it is agreed by Seller that none of the details contained herewith shall be published or disclosed to any third party without Buyer's written permission.

Seller will not, without the prior written consent of Buyer, in any manner publish the fact that Seller has furnished or contracted to furnish Buyer goods and/or services, or use the name or trademarks of Buyer, its products, or any of its associated companies in Seller's advertising or other publication. Seller will not place its, or any third party's trademark or other designation on the goods if the product bears a Buyer trademark or an identifying mark specified by Buyer, or if the product is peculiar to Buyer's design ("Marked Product"). Seller will sell Marked Product, and similar goods, only to Buyer and will not sell Marked Product or similar goods to third parties without Buyer's prior written consent.

### 18. RISK OF LOSS AND TITLE

Seller assumes the following risk: (a) all risks of loss or damage to all goods, work in process, materials and other things until the delivery thereof as herein provided; (b) all risks of loss or damages to third person and their property until delivery of all goods as herein provided; (c) all risks of loss or damage to any property received by Seller from or held by Seller or its supplier for the account of Buyer, until such property has been delivered to Buyer or the Customer as the case may be, and (d) all risk of loss or damage to any of the goods or part thereof rejected by Buyer, from the time of shipment thereof to Seller until redelivery thereof to Buyer.

Title to the goods shall transfer from Seller to Buyer upon the delivery thereof as herein provided, except in the case of progress payments, title to such portion of the goods which have been completed shall pass to Buyer upon receipt of such progress payments and Seller shall hold such goods as a bailee at will.

### 19. INSURANCE AND INDEMNIFICATION

Seller shall carry comprehensive general liability insurance, including contractual and product liability coverage, with minimum limits acceptable to Buyer, but in no event less than \$100,000 per occurrence. Seller shall, at the request of Buyer, supply certificates and policies evidencing such coverage.

Seller agrees to indemnify, defend, and hold Buyer and its subsidiaries, affiliates, successors, and customers, and its and their officers, directors, employees, agents, and other representatives (collectively, "Indemnified Parties"), harmless against any and all liabilities, damages (including, without limitation, consequential and incidental damages and lost profits), losses, claims, personal or property injuries, and expenses (including, without limitation, attorneys' fees ) which are or may be incurred by any Indemnified Party by reason of or in connection with: (a) any breach or violation of this Purchase Order; or (b) any actions or omissions of Seller or its employees, subcontractors, agents or other representatives. Buyer has the right to be represented by and actively participate through its own counsel in any suit or proceeding, all at Seller's expense, that is subject to these indemnification obligations. These indemnification obligations shall be in addition to any warranty obligations of Seller.

### 20. LAW AND REGULATIONS

Seller shall comply with all applicable federal, state and local laws, statutes and ordinances including, but in no way limited to rules, regulations and standards of the Occupational Safety and Health Act of 1970 and the Federal Contract Work Hours and Safety Standards Act and the rules and regulations promulgated under these acts. With respect to the supply of goods relating to a facility regulated pursuant to the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, the provisions of Title 10 Code of Federal Regulations, Part 21 (10CFR21) are applicable to the purchase order. Seller agrees in connection with performance of the purchase order, not to discriminate against any employee or applicant for employment because of race, sex, religion, color, age, national origin, handicap or status as a Vietnam Era or Special Disabled Veteran. Unless exempted, the equal employment opportunity clauses in Section 202, paragraphs one through seven of Executive Order 11246, as amended, and the affirmative action clause as set forth in 41 C.F.R. Section 60-741.4 (for orders of \$2,500 or more) and 41 C.F.R. Section 60-250.4 (for orders of \$10,000 or more) are incorporated herein by reference. If Seller fails to comply with the provisions of this Section, Buyer may, by written notice to Seller, terminate the purchase order.

### 21. NOTICES

All notices required or permitted to be given hereunder shall be deemed to be properly given if delivered in writing personally, or sent by United States certified or registered mail, or sent by private overnight delivery service, addressed to Seller or Buyer, as the case may be, at the address set forth on the face of the purchase order, with postage thereon fully prepaid. Releases, estimates, changes and specifications, and shipment notifications may be sent by confirming facsimile or e-mail, and shall be confirmed by mail as described above. The effective time of notice shall be at the time of such sending, mailing or personal delivery.

### 22. AUTHORIZATIONS

All authorizations of Buyer required or permitted to be given herein shall be deemed properly given only if given in writing by an authorized purchasing representative of Buyer.

### 23. WAIVER

No waiver by Buyer of any breach of the purchase order whether granting of an extension for performance hereunder shall be deemed to be a waiver of any other or subsequent breach.

### 24. ENTIRE AGREEMENT; AMENDMENT

The purchase order, the terms and conditions, and any attachments hereto or thereto constitute an agreement between Buyer and Seller and their respective heirs, devisees, administrators, executors, successors and permitted assigns. No change to the purchase order, the terms and conditions, or any attachments hereto or thereto and incorporated herein or therein shall be valid and binding on either party unless reduced to writing and signed by authorized representatives of both parties.

### 25. GOVERNING LAW; VENUE

The purchase order shall be governed, interpreted and construed by, and in accordance with, the laws of the State of Michigan without regard to the conflicts of laws provisions thereof, for domestic Sellers (the United National Convention on Contracts for the International Sale of Goods, 1980, as amended, shall apply for international Sellers). Any and all actions concerning any dispute arising hereunder shall be filed and maintained in the Circuit Court of Oakland County, Michigan or the federal District Court for the Eastern District of Michigan. The parties specifically consent and submit to the jurisdiction and venue of such state or federal court, and irrevocably waive any objections either may have based on improper venue or forum non conveniens to the conducting of any proceeding in any such court.

### 26. PREVAILING LANGUAGE

The purchase order shall be governed, interpreted and construed in the English language, regardless of any translations that may be made into any other language.

### 27. SURVIVAL

The obligations of Sections 3, 5-8, 12, 14-23 and 25-27 shall survive the cancellation, termination, or completion of the purchase order.

### 28. PRIORITY

If any of the terms set forth herein, other than Sections 8, 9, 11-13, 16, 19, 20 and 25-26, conflicts with any terms set forth on the face of the purchase order that incorporates these terms by reference, then the terms on the face of such purchase order shall control with respect to the purchase order.