



## TERMS AND CONDITIONS OF PURCHASE

**1. Acceptance-** This Purchase Order (the “Purchase Order” or the “Order”) constitutes Buyer’s offer to purchase and is expressly limited to the terms hereof. This Order becomes a binding contract of the terms set forth herein when it is accepted either by acknowledgment by the Seller or by the Seller’s commencement of performance hereof. No revisions or modifications to this Order shall be valid unless in writing and signed by an authorized representative of Buyer; and no conditions stated by Seller in accepting or acknowledging this Order shall be binding upon the Buyer if in conflict with, inconsistent with, or in addition to the terms and conditions contained herein, unless expressly accepted in writing by Buyer. In the event of a conflict in terms of Seller’s contract proposal and Buyer’s Purchase Order, the terms of this order shall govern.

**2. Packaging and Crating-** All items shall be packed by Seller in suitable containers for protection in shipment and storage. Prices set forth in this Order include all charges for Seller’s packing, crating, storage, and for transportation to f.o.b. point.

**3. Inspection-** All materials or articles ordered will be subject to final inspection and approval at destination by Buyer. Buyer reserves the right either to reject and hold, at Seller’s expense subject to Seller’s disposal, all materials or articles not conforming to drawings and/or specifications and/or samples if required under the terms of this Purchase Order, or to return material freight collect at Buyer’s discretion. No goods returned as defective shall be replaced without an order. If any merchandise fabricated by Seller from material furnished by Buyer is rejected by Buyer due to Seller’s fault or failure to meet the requirements of drawings, specifications, and/or samples required under the terms of this Purchase Order, Seller shall, at Buyer’s option, either replace such merchandise at its own expense or pay Buyer the replacement cost of the material used therein. Seller will be charged replacement costs of Buyer’s materials or tools damaged while in Seller’s possession.

**4. Price Changes-** Prices specified on this order shall not be subject to change without Buyer’s consent. Seller shall give the Buyer the benefit of any price decline to the specified shipping date or to the actual date of shipment, whichever is later. If, during its performance hereunder, Seller sells to any other customer goods of the type and quantity purchased hereunder on more favorable conditions or terms, including price, Buyer shall have the right, at its option, to have more favorable conditions or terms apply to this transaction.

**5. Advance Manufacturing and Shipments- TIME IS OF THE ESSENCE.** Seller agrees to deliver material in strict conformance to delivery schedule as it appears on the face of the Order and agrees that Buyer may return, at Seller’s expense and risk, all material shipped other-wise. If Seller’s delivery fails to meet the schedule specified by Buyer with the result that Buyer is compelled to call upon Seller to ship by other than designated routing to expedite delivery, Seller shall assume the difference for the additional cost of transportation. Seller shall not manufacture or order materials in advance of Seller’s required flow time or deliver any materials in advance of a schedule set forth in this order without Buyer’s written permission, Seller agrees to notify Buyer in writing of any potential delay in shipment. Material delivered under this Purchase Order in excess of the amount ordered herein shall be returned to Seller or retained by Buyer at no cost to Buyer.

**6. General Warranty-** Seller warrants that all of the articles and all of the materials furnished under this Order are free and clear of all liens and encumbrances whatsoever and that Seller has a good and marketable title to same and Seller agrees to hold Buyer free and harmless against any and all claimants to said merchandise. Seller further warrants that all of the articles and all of materials furnished under this Order will be free from defects in materials and workmanship, will conform to applicable specifications, drawings, samples or other descriptions given and shall be fit and sufficient for the purpose intended, merchandisable, of good material and workmanship, and free from defect. Said express warranty shall remain in effect as to each material and each article for a period of 12 months after it is applied to a use for which it was designed. The foregoing period and time may be extended by written agreement and shall be deemed to be extended for such greater period of time as may be specified in Seller’s standard warranty or service guarantee. The aforesaid express warranty shall be in addition to any standard warranty or service guarantee given to Buyer by Seller. All warranties shall be construed as conditions as well as warranties and shall not be deemed to be exclusive. Seller shall furnish to Buyer three copies of Seller’s standard warranty and service guarantee, applicable to the terms covered by this order. All warranties and service guarantees shall run both

to Buyer and to its customers. In addition, Seller agrees to pass any warranty benefits to Buyer that Seller receives from its suppliers of any item ordered hereunder.

#### **7. Termination-**

- (a) If the merchandise covered by this order is standard stock merchandise; Buyer at its option may cancel at any time any unshipped portion of this order without further obligation hereunder except to make payment subject to other applicable terms hereof, for the merchandise actually shipped prior to such cancellation.
- (b) If this Order covers merchandise manufactured or fabricated to the specifications of the Buyer, or special specifications prepared by Seller for Buyer, Buyer may terminate such work under this Purchase Order in whole, or part, at any time by written or telegraphic notice to Seller; and upon such termination in whole or in part of such work under this Purchase Order Seller will stop work immediately, notify subcontractors to stop work, and protect property in Seller's possession in which the Buyer has or may acquire an interest.
- (c) Buyer may terminate this Order upon written notice to Seller in the event any government entity imposes any tariffs, duties or assessments on the material.
- (d) Buyer may terminate this Order upon written notice to Seller in the event Seller defaults in the performance of any of its obligations, including, but not limited to, delaying production and/or delivery of any of the materials ordered.
- (e) Except where of a termination of this Order without cause, Seller may claim reimbursement, on forms which Buyer will furnish on request for Seller's actual costs incurred up to and including the date of termination which are properly allocable to or apportionable under recognized accounting practices to the terminated portion of the Purchase Order, including liabilities to subcontractors which are so allocable and acceptable finished units at contract price not previously billed or paid for, but excluding any charge for interest or any materials which Seller may be able to divert to other orders. Seller may also claim a reasonable profit on the work actually done by Seller prior to such termination, the rate of which shall not exceed the rate used in establishing the original purchase order price. The total of such claims shall not, however, exceed the canceled commitment value of this Purchase Order.

**8. Patent and Trademark Protection-** To the extent that the articles or materials delivered hereunder are not manufactured pursuant to design originated by Buyer or pursuant to a Buyer directed process, Seller guarantees that the sale or use of any or all articles or materials delivered hereunder or processes used will not infringe on any patent, trademark, or copyright and agrees that Seller will save Buyer and its successive customers harmless and indemnify Buyer and its successive customers against all claims losses, and damages to defend Buyer and its successive customers against all claims and legal actions and to pay all claims, judgments, awards, costs, and expenses, including attorneys' fee which Buyer may incur or become liable to pay under the patent laws of the United States or other countries resulting from the use of any goods purchased hereunder or by reason of trademark or copyright infringement arising out of the sale, marketing, packaging or advertisement of the merchandise furnished by Seller on account of infringement or alleged infringement of any patent, trademark, or copyright with respect to such articles, materials or processes and that Seller will, at its own expense, in the event any and all portion of the goods purchased hereunder are held to constitute an infringement and the uses enjoined, procure for Buyer the right to continue using said goods royalty free or replace same to Buyer's satisfaction with noninfringing goods of equal quality and performance, In the event this Purchase Order covers materials, machinery, equipment and/or manufacturing apparatus, the development or design of which is the concept or is paid for or suggested by Buyer, all patent rights incident thereto shall automatically become the exclusive property of Buyer, and Seller shall cooperate with Buyer in obtaining all such patent rights for Buyer. Buyer shall have no obligation to deal with Seller in connection with the repair or replacement of any patented or unpatented element incorporated in any goods purchased hereunder. However, nothing contained herein shall prevent the Buyer and its successive customer to participate in the defense of any action for copyright, patent, or trademark infringement.

#### **9. Risk of Loss, and Indemnification-**

(a) Unless otherwise provided in the order, Seller shall have title to and bear the risk of any loss or damage to the items purchased hereunder until they are delivered from Seller, and Seller's responsibility for loss or damage shall cease except for loss or damage resulting from Seller's negligence or failure to comply with this Order. Passing of title upon such delivery shall not constitute acceptance of the items by Buyer.

(b) Notwithstanding anything to the contrary contained in this Order, Seller shall, be an independent contractor and agrees to indemnify and hold harmless Buyer, its officers, directors, and employees from any cost, damage, expense, or other loss or liability, incurred or paid, arising out of or on account of the claims of or suits, whether in law or in equity, which may be asserted or brought against any of the indemnified parties hereunder, for property damage or destruction, personal injury or death, or any other damages of whatsoever nature or kind, including claims of consequential loss and breach of contract as a result of performance of the work, products, or the workmanship, or the actions or omissions of the Seller or its employees, agents, or sub-contractor. Seller agrees to pay and/or reimburse Buyer for any expenditures, including attorneys' fees and amounts paid in settlement, that the Buyer may make or become liable for in connection with the investigation, settlement, defense, or otherwise by reason of such —

claims or suits, and, if requested in writing by Buyer, will defend any such suits with counsel acceptable to Buyer at the sole cost and expense of Seller; Seller agrees to pay and to discharge any judgment, orders, or decrees rendered or entered against any of the indemnified parties for any matter indemnified hereunder; Buyer may retain any money due or become due to Seller sufficient to reimburse Buyer against any such claims, demands, judgments, or liability.

**10. Assignment-** No right, interest, or obligation under this Purchase Order may be assigned by Seller without the written permission of Buyer. Any attempted assignment thereof shall render it voidable at the option of Buyer. Buyer's written permission allowing Seller to make an assignment of payments under this Purchase Order shall be subject to set-off or recoupment for any present or future claim or claims which Buyer may have against Seller. Seller agrees that Buyer may assign its rights and/or delegate its duties in whole or in part.

**11. Cancellation for Insolvency-** In event of any suspension of payment or the institution of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or under any provision of the United States Bankruptcy Act or for the appointment of a receiver or trustee or an assignee for the benefit of creditors of either party, or in the event of breach of any of the terms hereof, including warranties of Seller the other party shall be entitled to cancel this Order forthwith, without liability for loss of anticipated profit.

**12. Confidential-** The Seller shall not disclose any details connected with this Order to any third party except as may be required to ensure performance, except as herein specified, without first obtaining the written consent of the Buyer.

**13. Tools and Materials-** Title to and the right of immediate possession of all tooling, designs, patterns, drawings and materials furnished by Buyer to Seller for use hereunder shall be and remain in Buyer, in all stages of construction. When the cost of dies and tools of negatives and plates involved in the manufacture or production of parts covered by this Order are included in the price per unit, then such dies and tools or negatives and plates become the property of the Buyer upon completion of orders. Any dies and tools or negatives and plates otherwise paid for by the Buyer shall forthwith become its property.

**14. Payment-** Payment for material on this Order shall not constitute an acceptance thereof, but all material shall be received subject to Buyer's inspection and rejection. Payment shall be made as stated on this Order less customary cash discounts, unless otherwise specifically arranged for and stated on this Order; or in the event that merchandise has not been received, the Buyer reserves the right to withhold payment until merchandise has been received and checked and does not waive the right to deduct the cash discount. When invoices subject to discount are not mailed on the date of shipment, discount period will begin on the date invoices are received in Buyer's office. Buyer's count will be accepted as final on all shipments not accompanied by packing list. Payment of this Order will be subject to deduction of any valid claim against Seller arising from this or any other transaction.

**15. Remedies-** The remedies of Buyer set forth in this Order shall be in addition to any other remedies provided by law. No waiver by Buyer of a breach of any provision of this contract by Seller shall constitute a waiver of any other breach by Buyer or of such provision.

**16. Compliance with Laws-** Seller represents and warrants that in the performance of the work under this Order and in the manufacture of materials requested under this Order, it has complied with or will comply with all applicable federal, state and local laws or ordinances, and all lawful orders, rules, and regulations thereunder, including but not by way of limitation the Fair Labor Standards Act of 1938, as amended (29 USC §201-219), the Walsh-Healey Public Contracts Act as amended (41 USC §35-45), the Eight Hour Law of 1912, as amended (40 USC; §324-326), the Copeland Anti Kickback Act (41 USC §51-54), Service Contracts Act of 1965 (41 USC §351), the Davis Bacon Act (40 USC §276(a)), Contract Work Hour Standards Act of 1962, as amended (40 USC §327-330), the Occupation Safety and Health Act of 1970, as amended (29 §651-678), the Rules and Regulations of the Secretary of Labor issued pursuant to Section 201 of Executive Order 11246, as amended, and Executive Order 11245, as amended. All materials provided under this Purchase Order must be free of conflict minerals from Covered Countries in accordance with Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**17. Right of Access Claims-** Seller shall provide access to their facilities and the facilities of their subcontractor for inspection by Buyer, its designated representative, the United States government or any state government or federal regulatory agency, or other customers or parties authorized by Buyer. Seller shall assure that all contracts with subcontractor state that such access and inspection shall be permitted. Buyer or its representative shall also have the right to perform quality audits at any facility used in the performance of this Purchase Order. Buyer shall make arrangements with Seller for time and date for such audits or inspections. Such inspections or audits shall be made during normal working hours with reasonable prior notice.

**18. Toxic Substance.** The Seller represents and warrants that each and every chemical substance contained in products furnished pursuant to this Purchase Order (or any subsequent modification renew, or revision thereof) is, at the time of sale, transfer, or delivery on the listed chemical substances complied and published by the

United States Environmental Protection Agency pursuant to Section 8 of the Toxic Substance Control Act (15 U.S.C. 2601 et. seq.) and is otherwise manufactured, sold, furnished, transferred, or delivered in compliance with all applicable provisions of such act and the rules and regulations promulgated thereunder.

**19. Entire Agreement-** In accepting this Order or making any deliveries hereunder, Seller agrees to all of the terms and conditions stated on this Purchase Order. This Purchase Order, together with any written documents which maybe attached hereto, and/or incorporated by specific reference, constitutes the entire agreement between the parties and supersedes all previous communications between them, either oral or written. All such previous communications are hereby abrogated and withdrawn, and no stipulations, representations, or agreements by Buyer or any of its officers, agents or employees shall be binding on the Buyer unless reduced to writing and attached to and incorporated in this Purchase Order by reference as above provided and no local, general or trade custom shall alter or vary the terms hereof.

**20. Construction-** This contract shall be construed in accordance with the laws of the State of Illinois. The provisions hereof are severable, and, in the event any is held to be unenforceable, the remaining provisions will continue in full force and effect. Failure of Buyer to insist on timely performance by Seller of any obligation created hereby shall not constitute a waiver.

**21. Applicable Laws-** This Order shall be construed and interpreted according to the substantive laws of the State of Illinois, excluding any choice of law rule or principle that might refer to the laws of another jurisdiction.