

STANDARD PURCHASE ORDER Terms and Conditions

1. **ACCEPTANCE AND COMPLETE AGREEMENT.** This order is Buyer's offer to Seller and is not an acceptance by Buyer of any offer to sell by Seller or of any terms and conditions contained in any such offer. Acceptance of this offer by Seller should be made by (a) executing and returning the acknowledgement copy, or (b) delivering any of the goods ordered herein or (c) rendering any of the services ordered herein. Any additional or different terms proposed by Seller are objected to and rejected unless expressly assented to in writing by Buyer. This order is a complete and exclusive statement of the terms and conditions of the agreement between Seller and Buyer.

2. **PACKING AND SHIPPING.** All goods shall be packed, rated and braced to prevent damage or deterioration in accordance with Uniform Freight Classification Rules and Regulations and Carrier Tariffs. No charges will be paid by Buyer of preparation, packing, crating or cartage unless separately stated in the order. All shipments to be forwarded on one day via one route shall be consolidated and shipped to protect lowest transportation charge. Each container shall be consecutively numbered and marked with order number and warehouse location. Container and order numbers shall be indicated on Bill of Lading. Two copies of packing sheets, showing order number shall be attached to No. 1 container of each shipment. Goods sold F.O.B. place of shipment, shall be forwarded collect, unless otherwise specified on face of order. Seller shall make no declaration concerning value of goods shipped, except at lowest rating.

Bill of Lading description of goods shall be described in Uniform Freight Classification of Carrier Tariffs and not by trade or technical name. Shipping costs for goods on back order shall be paid only at the rate which would have been applicable had the complete order been shipped at one time. All excess costs shall be borne by Seller.

3. **CANCELLATION.** Time is of the essence in this order. Buyer reserves the right to cancel this order, or any portion of this order, without liability, if: (1) delivery is not made when and as specified; (b) Seller fails to meet contract commitments as to exact time, price, quality or quantity; (c) Seller ceases to conduct its operation in the normal course of business; (d) Seller is unable to meet its obligations as they mature; (e) proceedings are instituted against Seller under the bankruptcy laws or any other laws relating to the relief of creditors; (f) a receiver is appointed or applied for by Seller; or (g) any assignment is made by Seller for the benefit of creditors. Buyer also reserves the right to cancel for any other reason permitted by the Uniform Commercial Code then in effect in the state where Buyer has signed this order.

4. **INVOICE AND PAYMENT.** A separate invoice shall be issued for each shipment. Unless otherwise specified on this order, no invoice shall be issued prior to shipment of the goods and no payment shall be made prior to receipt of both the goods and a correct invoice. Applicable discount periods shall be computed from the date of receipt of the goods and a correct invoice to the date Buyer's check is mailed. Unless freight and other charges are itemized, discount shall be taken on the full amount of invoice.

5. **WARRANTIES.** Seller warrants that:

a. Price. The prices for the goods sold to Buyer under this order are not less favorable than those currently extended to any other customer for the same or like articles in comparable or less quantities.

b. Quality. All goods delivered under this order will conform to the requirements of this order (including all applicable descriptions, specifications, and drawings), will be free from defects in material and workmanship and will, to the extent not **manufactured pursuant to detailed designs furnished** by Buyer, be free from defect in design and fit for the intended purposes, and Seller's warranties and any more favorable warranties, service policies, or similar undertakings of Seller shall be enforceable by Buyer's customers and the users of Buyer's goods, as well as by Buyer;

c. Compliance with Laws. In the performance of this order, Seller will comply with all applicable Federal, State, and local laws and ordinances and all lawful orders, rules and regulations thereunder, including the Fair Labor Standards Act, 1938, as amended (29 U.S.C. Sec 201-219), the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. Sec 34-45), the Contract Work House Standards Act (40 U.S.C. Sec. 327-330), Occupational Health and Safety Act (Pub L 91-596), and all lawful rules and regulations thereunder, and, on its invoice or in other form satisfactory to Buyer, Seller shall submit certification with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the U.S. Department of Labor issued under Section 14 thereof.

6. INDEMNITY AND INSURANCE

a. Patent Indemnity. Seller, at its expense, shall protect, defend and indemnify Buyer, Buyer's customers, and the users of Buyer's goods against all claims and proceedings alleging infringement of any United States or foreign patent by any goods delivered under this order, and Seller shall hold them harmless from any resulting liabilities and losses, provided Seller is reasonably notified of such claims and proceedings. Seller's obligation shall not apply to goods manufactured pursuant to detailed designs furnished by Buyer nor to any infringement arising from the use or sale of goods in combination with goods not delivered by Seller if such infringement would not have occurred from the use or sale of such goods solely for the purpose for which they were designed or sold to Buyer. Seller's obligation shall extend to the U.S. government only if and to the extent Buyer has agreed to indemnify the U.S. Government.

b. General Indemnity. Seller, at its expense, shall indemnify Buyer and save Buyer harmless from any and all liability, demands, causes of action or claims, whether well founded or otherwise, including the cost of defending the same, for bodily injury to any person or damage to property, either real or personal, of any person whomsoever in any way arising out of, in the course of, or in connection with the goods or services purchased hereunder or the operations of the Seller in carrying out the provisions and terms of this Agreement.

c. Insurance. Seller shall maintain such public liability insurance, including products liability, completed operations, contractors liability and protective liability, automobile liability insurance (including non-owned automobile liability) and Workmen's Compensation, and employer's liability insurance as will adequately protect Buyer against such damage, liabilities, claims, losses and

expenses (including attorney's fees) as are described in this paragraph 6. Seller agrees to submit certificates of insurance evidencing its insurance coverage when requested by Buyer.

7. **INSPECTION AND REJECTION.** All goods, except goods inspected and accepted by the government at source for direct shipment to the government, are subject to final inspection and acceptance by Buyer at destination notwithstanding any payment or prior inspection at source. Such inspection will be made or prior inspection at source. Such inspection will be made within a reasonable time after receipt of goods.

Buyer shall notify Seller if any goods delivered hereunder are rejected, and at Buyer's election and Seller's risk and expense, such goods shall be held by Buyer or returned to Seller. No replacement or correction of nonconforming goods shall be made by Seller unless agreed to in writing by Buyer.

8. **CHANGES AND DISCREPANCIES.** Any discrepancies, omissions or lack of clarity in drawings, specifications, or purchase orders, must be referred to the Buyer for written interpretation before this order is processed. Buyer shall have the right at any time before completion of the order, to make changes in quantities, in drawings and specifications, in delivery schedules, and in methods of shipment and packaging. If such changes cause an increase or decrease in price or in the time required for performance, Seller shall promptly notify Buyer thereof in writing and equitable adjustment shall be made. Changes shall not be binding upon Buyer unless evidenced by a purchase order change notice and issued and signed by Buyer.

9. **FORCE MAJEURE.** Seller shall not be liable for any delay or failure to deliver any or all of the goods covered by this purchase order in the event of delay or failure caused by governmental regulations, labor disputes, strikes, war, riots, insurrection, civil commotion, mobilization, explosion, fire, flood, accident, storm or any act of God, failure of crops or supplies, delays of common carriers, embargoes, or other causes beyond Seller's reasonable control. Similarly, Buyer shall not be liable for failure to take delivery of the goods for any of the above causes, or other causes beyond Buyer's reasonable control if they render it commercially impracticable for Buyer to receive or use the goods on a timely basis. Where only a part of Seller's capacity to perform is excused under this paragraph, Seller must allocate production and deliveries among itself and its various customers then under contract for similar goods during the period. The allocation must be made in a fair and equitable manner. Where either Seller or Buyer claims an excuse of nonperformance under this paragraph, it must give notice in writing to the other party. Seller shall not be obligated to sell nor Buyer obligated to purchase at a later date that portion of the goods that Seller is unable to deliver or Buyer is unable to receive or use because of any of the aforementioned causes. No goods are to be tendered by Seller after expiration of the terms specified in this purchase order without consent of Buyer.

10. **REQUIREMENTS FOR FEDERAL SUBCONTRACTORS.** Seller shall comply with all Federal requirements applicable to Federal subcontractors, including without limitation those requirements relating to equal employment opportunity, minority business subcontracting, small business subcontracting, labor surplus area subcontracting and clean air and water, and at the request of Buyer, Seller shall execute and shall be bound by any certifications or

agreements incorporating such requirements in forms approved by Buyer.

11. **ASSIGNMENTS.** No assignment of any rights, including rights to money due or to become due hereunder, or delegation of any duties under this order shall be binding upon Buyer until its written consent has been obtained.

12. **INSTALLATION.** If this order requires Seller to furnish services of its supervisor expert or other employee in connection with the installation or any other matter under this order to perform work on Buyer's premises, Seller agrees, whether or not a separate charge is made therefore, that such supervisor, expert or other employee of Seller, in performing such services, is not and shall not be deemed to be the agent or employee of Buyer. Seller assumes full responsibility for its acts and omissions and agrees to save Buyer harmless from any claims whatever arising therefrom. Seller assumes exclusive liability for any payroll or other taxes imposed upon the employer by an Federal or State law.

13. **DECLINE IN PRICE.** Buyer shall be protected against declining prices on the undelivered portion of this order. Seller may elect to meet price reductions of other vendors or its own lower prices to other purchasers, but if Seller should refuse to do so Buyer shall have the right to cancel any or all of the balance due on this order without cost to Buyer.

14. **NOTICE OF LABOR DISPUTE.** Whenever Seller has knowledge that any actual or potential labor dispute may delay this order, Seller shall immediately notify and submit all relevant information to Buyer. Seller shall insert the substance of this entire clause, in any subcontract hereunder as to which a labor dispute may delay this order. However, any subcontractor need give notice and information only to its next higher tier contractor.

15. **CLEARANCE OF MATERIALS INTENDED FOR PUBLIC RELEASE.** No news release, including photographs and film, advertisements, public announcement, denial or confirmation of same or any part of the subject matter of this order or any phase of any program thereunder shall be made without prior written approval of Buyer.

16. **APPLICABLE LAW.** This order shall be governed by the Uniform Commercial Code of the State in which Buyer has executed this order.

17. **WAIVER.** The right of Buyer to require strict performance of this order shall not be affected by any prior waiver of course of performance.

18. **SUPPLEMENTAL TERMS.** The supplemental terms attached hereto, if any, shall constitute a part of this order.