

# PURCHASE ORDER TERMS & CONDITIONS

**BUYER OFFERS TO PURCHASE THE GOODS AND SERVICES DESCRIBED HEREIN ONLY UPON THE TERMS AND CONDITIONS CONTAINED HEREIN. BUYER RESERVES THE RIGHT TO REVOKE THIS ORDER WITHOUT NOTICE. THIS ORDER SHALL BE DEEMED AGREED TO AND ACCEPTED BY THE SELLER AND BECOME A BINDING CONTRACT ON THE TERMS AND CONDITIONS CONTAINED HEREIN WHEN (A) SIGNED AND RETURNED TO SELLER, OR (B) SELLER ISSUES ITS ORAL OR WRITTEN ACKNOWLEDGMENT, OR (C) SELLER COMMENCES PERFORMANCE, OR (D) SELLER OTHERWISE ACCEPTS THIS ORDER. BY ACCEPTING THIS ORDER, SELLER WAIVES ALL TERMS AND CONDITIONS CONTAINED IN ITS QUOTATION, ACKNOWLEDGMENT, INVOICE, OR OTHER DOCUMENTS WHICH ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED HEREIN, AND ALL SUCH DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS SHALL BE NULL AND VOID.** All special terms and conditions or supplemental attachments which are attached to or referenced in this Order are made a part of the contract between the Buyer and the Seller as though fully set forth herein; provided that, to the extent of any inconsistency, the terms and conditions of this Order shall govern.

**1. Delivery and Performance.** Time is of the essence. Seller shall make deliveries in quantities and at time specified by the Buyer. Buyer shall have the right to refuse shipments made in advance of the delivery schedule set forth in this Order. If at any time it appears that Seller will not make such schedule, Seller shall promptly notify the Buyer of the reasons for and estimated duration of the delay. If Buyer agrees to accept deliveries after the date of delivery has passed, Buyer shall have the right to direct the Seller to make shipment to the F.O.B. point set forth in this Order by the most expeditious means, and the total cost of such expedited shipment and handling shall be borne by the Seller. Acceptance of late deliveries shall not be deemed a waiver of Buyer's right to hold the Seller liable for any loss or damage resulting therefrom, nor shall it act as a modification of the Seller's obligation to make deliveries in accordance with the delivery schedules set forth in this Order. Buyer shall not be liable for payment of goods delivered to Buyer in excess of quantities specified by Buyer. Buyer may from time to time change delivery schedules or direct the temporary suspension of scheduled shipments.

**2. Warranty.** In addition to the warranties provided by law, Seller expressly warrants that all goods and services supplied under this Order: (a) shall conform to specifications, drawings, samples or other descriptions furnished by Seller or specified by Buyer; (b) shall be merchantable, of good material and workmanship and free from defects; and (c) shall be fit and sufficient for Buyer's purposes. Seller warrants further that the prices charged the Buyer hereunder are no higher than prices charged or placed by others for similar quantities under similar conditions, and if Seller breaches this warranty, the prices of the goods and services supplied hereunder shall be reduced accordingly. Buyer's approval of specifications, drawings, samples and/or other descriptions finished by Seller shall not relieve Seller of its obligations as described in this paragraph 2 or otherwise under this Order. These warranties shall survive any inspection, acceptance or payment by Buyer, and shall be for the benefit of Buyer, its successors, assigns, customers, and the ultimate users of the goods or services supplied hereunder.

**3. Title and Risk of Loss.** Title to all goods supplied hereunder shall remain in Seller until delivery and acceptance by Buyer at the F.O.B. point or destination. The risk of loss of, or damage to the goods shall be upon Seller until they are accepted by the Buyer.

**4. Invoicing and Payment.** Individual invoices showing the number of this Order, part numbers and code numbers and Seller's packing list number shall be issued for each shipment, but shall not be issued before the date of shipment. No invoices shall be payable unless goods or services have been received by Buyer. No interest, finance or services charges shall be payable on the goods/services supplied hereunder. Buyer shall be entitled to a full cash discount on invoices bearing discount terms. Rejections, delay in delivery or delivery in advance of delivery date shall be considered just cause for Buyer withholding payment without loss of cash discount privilege. Unless otherwise specified on the face of this document, the price of goods supplied under this Order shall include all charges for Seller's packing and crating and for transportation to F.O.B. point; the amount of any such charges shall be shown separately on Seller's invoice.

**5. Taxes.** The price of the goods or services supplied hereunder includes all federal, state and local sales, use and similar taxes. The amounts of any such taxes shall be shown separately on Seller's invoice.

**6. Setoff.** All claims for money due or to become due from Buyer shall be subject to deduction or setoff by the Buyer by reason of any counterclaim arising out of this Order or any other transaction with the Seller.

**7. Termination.** This Order shall automatically terminate where (a) Seller refuses or fails to comply with any of the provisions hereof which refusal or failure has not been cured within a period of ten (10) days after receipt of written notice of the same from Buyer; (b)

Seller becomes insolvent, or makes a general assignment for the benefit of its creditors or files or has filed against it a petition in bankruptcy or for reorganization, or pursues any other remedy under any other law relating to the relief of debtors, or in the event a receiver is appointed for Seller's property or business.

This Order may be terminated by Buyer at any time at its option in whole or in part for its convenience without penalty to Buyer, by giving written notice to the Seller. After receipt of such notice, unless otherwise directed by the Buyer, Seller, (a) shall immediately terminate all work under this Order; (b) shall transfer title and deliver to Buyer all (i) completed goods, (ii) goods in process, and (iii) materials produced or acquired in connection with such goods, which goods and/or materials conform to the requirements of this Order, do not exceed the quantity authorized by Buyer, and cannot otherwise reasonably be used by Seller; and (c) shall take all action necessary to protect goods and materials in Seller's possession in which Buyer has or may require an interest. Buyer shall determine the amount, if any, due Seller with respect to such termination of this Order and such determination shall be final.

**8. Inspection.** Seller shall permit inspectors of the Buyer or Buyer's customers (including the United States government) to have access to the Seller's plant at all reasonable times for the purpose of inspecting any goods supplied hereunder or work in process for production of such goods, and to conduct preliminary tests on work in process. All goods, except goods inspected and accepted by the government, shall be received subject to Buyer's inspection and rejection at Buyer's plant or other places designated by Buyer notwithstanding prior inspections. Title shall not be deemed transferred on any defective goods or goods otherwise not conforming or fulfilling Seller's warranty (express or implied) with respect to this Order (collectively "Defective Goods"), and hence no payment, including freight, shall be due with respect to the same. Defective Goods shall be held for Seller's inspection and at Seller's risk, and if Seller so directs, shall be returned at Seller's expense, and in addition to Buyer's other rights, Buyer may charge Seller all expenses on unpacking, examining, repacking and reshipping Defective Goods. No Defective Goods shall be replaced without a new purchase order. Any payment by Buyer shall not be construed as an acceptance of Defective Goods. Nothing contained herein shall relieve Seller from its obligations of testing, inspection and quality control.

**9. Changes.** Buyer shall have the right at all times to make changes to drawings or specifications regarding the goods and services supplied hereunder. Any difference in price or time resulting from such changes shall be equitably adjusted and this Order shall be modified in writing accordingly so long as a claim for adjustment has been made in writing by the Seller to the Buyer within thirty (30) days of the date of receipt by Seller of such change. In the absence of such notice, the Buyer shall not be obligated to consider Seller's claim for an equitable adjustment resulting from such change. Buyer shall have the right to examine any of Seller's pertinent books and records for the purpose of verifying Seller's claim. Nothing in this paragraph 9 shall excuse Seller from proceeding with this Order as changed, including but not limited to failure of Buyer and Seller to agree upon any adjustment to be made under this paragraph 9.

**10. Buyer's Materials.** Any materials, including but not limited to tools, molds, dies, gauges, jigs, fixtures and patterns, furnished by Buyer in connection with this Order shall be held by Seller as bailee for hire for use only in filling Buyer's orders, be kept separate and clearly identified by Seller as Buyer's property, and shall be fully insured by Seller in an amount equal to the replacement cost thereof with loss to be paid to the Buyer. Notice of loss or damage shall be provided by Seller to the Buyer within seven (7) calendar days of the occurrence of the loss or damage. All such materials furnished by Buyer which are not consumed in the performance of this Order shall be returned to Buyer at Buyer's direction. Seller waives and releases Buyer from, and Seller shall defend, indemnify and hold harmless Buyer from and against all claims of injury or damage to Seller, its employees and/or others, arising out of or in connection with the presence or use of such materials, whether such injury or damage is caused by defects in such materials, Buyer's negligence or that of its agents or employees, or otherwise.

**11. Tooling.** Unless otherwise stated herein, Seller at its own expense shall furnish, keep in good condition, insure and replace as needed all tooling and other materials necessary for the performance of this Order. If Seller supplies special tooling or other materials related principally to this Order, Buyer at any time may purchase and take possession of any such tooling or other materials by paying Seller the unamortized cost thereof.

**12. Drawings, Confidential Information and Inventions.** All drawings, prints, samples, tests and reports, if and as required, shall be supplied by Seller without charge. Buyer shall have the right to use for any purpose unpatented information supplied by Seller if such information is supplied without written restriction regarding the use or disclosure of the same. Seller shall not use or disclose any drawings, prints, samples, tests or reports or other confidential information supplied by Buyer, whether or not designated as such, except as reasonably required to fulfill this Order. All inventions and ideas, whether or not patentable, made, conceived, developed or acquired by Seller incident to supplying goods or services under this Order shall vest in and inure to the Buyer's sole benefit, and Seller shall, at the request of Buyer, cause applications for patents covering such inventions to be executed by appropriate representatives of Seller and assigned to Buyer.

**13. Indemnification.** Except where goods are to be provided from specifications, designs, or processes furnished by the Buyer, Seller shall defend, indemnify and hold harmless Buyer from any loss or damage sustained by, and from and against all claims asserted against Buyer arising from any alleged infringement of any trademark, patent, copyright or other proprietary right, by reason of the sale or use of goods and/or services supplied hereunder and if any of these goods or services or any part thereof is held to constitute infringement and its use is

enjoined, Seller shall at its own expense either procure for Buyer the right to continue to use such goods or services or part thereof or replace them with non-infringing goods or services.

Seller shall defend, indemnify and hold harmless Buyer from and against any claims asserted against it for injuries or damage to property arising in whole or in part from any act or omission of Seller, its agents, servants, employees, representatives or subcontractors with respect to the goods or services supplied hereunder, including those claims arising in whole or in part out of the negligence of Buyer. Seller waives and releases Buyer from all rights of contribution or indemnity to which it may otherwise be entitled. As used in this paragraph 13, the term "Buyer" shall mean Buyer, its officers, directors, agents, employees, subcontractors, parent, subsidiaries, divisions and affiliates, successors, assigns, customers and the ultimate users of the goods and services supplied hereunder.

**14. Compliance with Laws.** In performance of its obligations under this Order, Seller shall comply with all applicable executive orders, federal, state, municipal and local laws, rules, orders, requirements and regulations, including but not limited to the Fair Labor Standards Act of 1938, as amended, and the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, together with all standards and regulations issued or adopted pursuant thereto. Seller's acceptance of this Order and supplying of goods and services hereunder shall constitute certification by Seller of such compliance. Any permits or licenses which may be required for performance by the Seller hereunder shall be obtained by Seller at its cost and expense. Seller shall furnish Buyer with certificates and other evidence of compliance upon Buyer's request.

Seller shall upon delivery of goods supplied hereunder provide Buyer with material safety data sheets (MSDS) or any essentially similar form approved by the Buyer setting forth the type and quantity of all hazardous substances, as defined in appropriate federal, state and local laws and regulations, contained in such goods. If the goods contain no such hazardous substances, the form shall so state. In addition any such hazardous substances shall be labeled by generic or basic chemical name only, and Seller shall provide Buyer with safe handling procedures for such substances including disposal procedures on the MSDS or other form provided.

**15. Equal Opportunity Clause.** Seller shall not maintain segregated facilities or discriminate against any employees because of age, race, color, religion, sex or national origin or an any other ground prohibited by law. Seller shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their age, race, color, religion, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Seller shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Equal Opportunity Clause. The Seller shall comply with all provisions of Executive Order 11246, as amended, The Vietnam Veterans Readjustment Act, The Rehabilitation Act of 1973, the Equal Pay Act of 1963, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act of 1993, and all other Equal Employment Opportunity Laws and Executive Orders, and the rules, regulations, and relevant orders of the United States Secretary of Labor, which are incorporated herein by reference. Seller shall incorporate this Equal Opportunity Clause in every non-exempt contract between Seller and Buyer, and Seller shall obtain identical certifications from subcontractors prior to award of any non-exempt subcontracts.

**16. Insurance.** Seller shall carry the following insurance coverage with a carrier acceptable to Buyer and furnish to Buyer, prior to the supply of goods or services hereunder, certificates of insurance evidencing such coverage, naming the Buyer as additional insured under its product liability coverage, and providing that Buyer shall receive at least thirty (30) days' prior written notice of any cancellation of or changes to such coverage: (1) comprehensive general liability, including contract liability, in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury or property damage, and \$2,000,000 per occurrence and \$3,000,000 in the aggregate for products; (2) workers' compensation as required by state law for all of Buyer's employees and those of its subcontractors. In addition, if this Order calls for installation or work at Buyer's site, or delivery directly by Seller (not via third-party carrier) to Buyer's site, Seller shall also carry automobile liability insurance for itself and each of its subcontractors in the amount of \$2,000,000 combined single limit or \$ 1,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage, and the certificate of insurance furnished by Seller shall name Buyer as an additional insured under its comprehensive general liability and automobile liability policies. Seller shall furnish Buyer at its request a full copy of the policies listed above, including any and all endorsements thereto. The Seller shall have the burden of providing to Buyer the certificates of insurance required under this paragraph 16, and Buyer may refuse payment to Seller for goods or services supplied hereunder without any penalty to Buyer, pending Buyer's receipt of such certificates of insurance or any replacements for expired certificates. Notwithstanding the provisions of paragraph 7 hereof, if Buyer terminates this Order due to Seller's failure to provide it with certificates of insurance as required herein, Buyer may require Seller to arrange at its expense for the return of all goods supplied hereunder to Seller, and Buyer shall not be required to take title to or otherwise pay for any goods in process or materials produced or acquired in connection with such goods.

**17. Force Majeure.** Neither party shall be liable to the other for damages arising from delay in delivery or any other nonperformance under this contract arising out of causes beyond its control and without its fault or negligence, including but not limited to acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

**18. Government Contracts.** In the event that this Order is placed against a United States government contract or purchase order, the clauses set forth in the Federal Acquisition Regulation (FAR) or similar federal procurement regulations which are included in Buyer's contract or purchase order are hereby incorporated by reference and made a part of this Order; provided, however, that appropriate revisions of these clauses shall be deemed to have been made so that, for example, references to "contracting officer" or "government" shall apply to the Buyer, and references to the "contractor" shall apply to the Seller as appropriate to the intent of each clause used in the government contract.

**19. Limitation on Buyer's Liability; Statute of Limitations. IN NO EVENT SHALL BUYER BE LIABLE FOR ANTICIPATED PROFITS OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR DAMAGES IN THE NATURE OF PENALTIES; BUYER'S LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM THIS CONTRACT OR THE PERFORMANCE OR BREACH HEREOF SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE, TO THE GOODS OR SERVICES OR PART THEREOF THAT GIVES RISE TO THE CLAIM. ANY ACTION RESULTING FROM ANY BREACH ON THE PART OF BUYER AS TO THE GOODS OR SERVICES SUPPLIED HEREUNDER SHALL BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.**

**20. Notice of Labor Disputes.** Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this Order, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Buyer. Seller shall insert the substance of this paragraph in any contract with any subcontractors affecting the goods or services supplied hereunder except that each such subcontractor shall provide that in the event its timely performance is delayed by any actual or potential labor dispute, the subcontractors shall immediately notify Seller of all relevant information with respect to such dispute.

**21. Quality Control.** In accordance with the specific requirements of this Order, Seller shall maintain a quality control system acceptable to Buyer covering the goods and services supplied hereunder. Records of all certification and inspection work by Seller and its suppliers shall be kept complete and available to Buyer at Seller's facilities, including without limitation, all records, reports, data and other information necessary to insure compliance with applicable Federal Aviation Regulations.

**22. Notices.** Notices supplied hereunder shall be deemed to have been duly given if delivered or mailed first class, registered mail, postage prepaid or via any overnight courier, to the addresses set forth on the face of this document or to such other address as is reasonably appropriate.

**23. Miscellaneous.** This contract constitutes the entire agreement between the parties relating to the goods and services supplied hereunder. No modification of this contract shall be binding upon Buyer unless made in a writing signed by Buyer's duly authorized representative. Seller shall not, in whole or in part, assign, subcontract or delegate its rights and obligations under this contract without the prior written consent of Buyer; any reference to subcontractors elsewhere in this Agreement does not constitute a waiver of Seller's obligations to obtain the prior written consent of the Buyer as aforesaid. No waiver by Buyer of a default shall be deemed a waiver of any subsequent default. Captions used herein shall have no substantive significance. The terms of this contract shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. Any litigation under this Order if commenced by Seller shall be brought in a court in Chester County in the Commonwealth of Pennsylvania, and Seller shall accept venue in such court. However, if the issue in dispute is not covered by Pennsylvania law, or if there is a conflict between Pennsylvania law and the federal law, the Pennsylvania court shall apply the federal law.

**24. Shipping.** A. All goods supplied hereunder shall be suitably packed, marked and shipped in accordance with Buyer's instructions, or absent such instructions, in accordance with the requirements of common carriers in a manner to secure lowest transportation costs, and no additional charge shall be made to the Buyer unless otherwise provided on the face of this document. B. Packing slips shall accompany each shipment. C. Original bill of lading or other shipping receipt for each shipment shall be promptly forwarded to Seller in accordance with Buyer's instructions. D. Seller shall describe goods on bill of lading or other shipping receipt and route shipments in accordance with Buyer's instructions.