

TERMS AND CONDITIONS

1. ACCEPTANCE AND TERMS AND CONDITIONS

Seller agrees to be bound by, and comply with all the terms and conditions of this Purchase Order (P.O.), including any supplements thereto, and all specifications and other documents referred to in this P.O. Absent any written acceptance of this P.O. by Seller, full or partial performance under this P.O. shall be deemed acceptance of this P.O. This P.O. does not constitute an acceptance by Purchaser of any offer to sell, any quotation, or any proposal. Reference in this P.O. to any such offer to sell, quotation, or any proposal shall in no way constitute a modification of any of the terms and conditions of this P.O. **Except as otherwise specifically agreed to in writing by Purchaser, Purchaser hereby objects to and rejects any attempted acknowledgment or order acceptance containing terms or conditions inconsistent with or in addition to terms and conditions of this P.O., whether or not materially different therefrom, and such inconsistent or additional terms shall not be binding upon Purchaser.**

2. INSPECTION AND REJECTION

All goods and services covered by this P.O. shall be received subject to Purchaser's right of inspection, test and rejection. Such right shall be extended to Purchaser's customer (including the United States Federal Government if applicable). Payment for goods and services delivered hereunder shall not constitute acceptance thereof, and all payments against documents shall be made with a reservation of rights by Purchaser for defects, including, without limitation, defects apparent on the face thereof. Seller shall provide and maintain an inspection and process control system acceptable to Purchaser for production of the goods and services covered hereby. Records of all inspection work by Seller shall be kept complete and available during the performance of this P.O. or for such longer period as may be specified. When goods are made to Purchaser's instructions, specifications or other requirements, Purchaser may inspect such goods at Seller's plant and any other place of manufacture during production without waiving its right subsequently to reject or revoke acceptance of such goods for undiscovered or latent defects. Seller, at its expense, shall furnish, or cause to be furnished, facilities and assistance reasonably necessary to ensure the safety and convenience of each such inspection. Failure to inspect and accept or reject goods and services or failure to detect defects by inspection shall not relieve Seller from any of its responsibilities hereunder. If any of the goods or services ordered hereunder are found at any time to not conform with the requirements of this P.O., including any applicable samples, drawings or specifications, or to be defective in any design, workmanship or materials, Purchaser may at its option require Seller to inspect goods and remove and replace nonconforming goods with goods that conform to this P.O. and to re-perform the services in conformity with this P.O. Purchaser may also elect to inspect and sort goods if Seller fails to timely inspect, remove and replace goods and charge Seller for cost of inspection. The rights granted to Purchaser in this paragraph are in addition to any other rights Purchaser may have.

3. CHANGES

Purchaser at any time shall have the right to make changes in the quantities, specifications or delivery schedule. Any such change which has significant impact shall entitle either Seller or Purchaser to an equitable adjustment. However, no additional charge will be allowed unless authorized by Purchaser's written amendment to this order. Information, such as technical direction or guidance provided to Seller by representatives of Purchaser in connection with the Seller's performance of this P.O, shall not be construed either as a change within the meaning of this provision or as direction to proceed outside the scope of this P.O. If Seller considers that the conduct of any of Purchaser's employees has constituted a change hereunder, Seller shall notify Purchaser immediately in writing as to the nature of the change and its effect on Seller's performance including delivery schedule and the amount to be paid to Seller. In any event, the maximum liability of Purchaser for obsolescence, scrappage, and/or rework resulting from any change shall be limited to the value of the materials and parts in process at the time of the change, to the extent that such parts are within Seller's normal manufacturing cycle required to meet the established delivery schedule. Nothing in this clause, including any disagreement with Purchaser as to the equitable adjustment to be made, shall excuse Seller from proceeding with the order as changed.

4. DELIVERY

Unless otherwise stated herein, time is of the essence. Delivery shall be made in the quantities and at the time or times specified in this P.O. If this P.O. is identified as a blanket P.O. or if no time for delivery or performance is specified, the time for delivery and/or performance shall be at the times and in the amount requested in a release or delivery schedule furnished by an authorized representative of Purchaser. Under no circumstances shall Purchaser be under any obligation to Seller for goods or services covered by a blanket P.O. or a P.O. in which no time for delivery

or performance is specified unless specifically covered by a release or delivery schedule of an authorized representative of Purchaser. In the event this order is terminated in whole or in part for any reason Purchaser shall have no obligation to pay Seller, under the provisions of Paragraphs 12 or 13 hereof or otherwise, the purchase price of or any costs of production associated with any items which were produced in unreasonable or unnecessary anticipation of the delivery date. Without prior written approval of Purchaser, commencement of production by Seller of any item more than thirty (30) days prior to such scheduled delivery date will be conclusively presumed by Purchaser as unreasonably or unnecessarily anticipated by Seller. In addition to Purchaser's other remedies, and without liability, Purchaser reserves the right (i) to refuse and to return at Seller's risk and expense, including, without limitation, warehouse or other storage costs and extra handling costs, any shipments made in excess of quantities ordered and deliveries made before or after the time or times specified in this P.O. or in supplementary schedules furnished by Purchaser, and (ii) if delivery is not made in the quantities and/or by the time or times specified, to take either or both of the following actions: (a) terminate this P.O. without liability by notice effective when received by Seller and to purchase elsewhere and charge Seller with any resultant loss, including, without limitation, consequential or incidental damages, unless deferred shipment has been authorized, or (b) direct Seller to make expedited routings of goods, and the difference in cost between any such expedited routing and the P.O. routing costs shall be paid by Seller. Seller shall not, however, be liable for delays or defaults in deliveries due to causes beyond its control and without its fault or negligence. If at any time Seller has reason to believe that deliveries will not be made as scheduled it shall immediately give Purchaser written notice setting forth the causes of the anticipated delay. If Seller accepts shipments of goods that deviate from expected delivery times or quantities, an inventory charge against Seller may be made

5. TRANSPORTATION

Unless otherwise stipulated on the face of this P.O. goods covered by this P.O. shall be shipped "FOB-Seller's Plant;" however, title to said goods to pass to Purchaser upon the completion of unloading of the goods at the destination specified for any delivery and Seller shall bear the risk of loss of goods while in the possession of the carrier. No charges for unauthorized transportation will be allowed. Any unauthorized shipment which will result in excess transportation charges must be fully prepaid by the Seller.

6. WARRANTIES

Seller expressly represents, warrants and covenants that all goods and services covered by this P.O. will: (a) conform to any and all specifications, drawings, plans, instructions, samples or other descriptions, whether express or implied, furnished by Purchaser or by Seller; (b) be fit and sufficient for the purpose(s) for which they were purchased, and if Seller knows of or has reason to know of any particular purpose for which Purchaser intends to use such goods and services the goods and services will be fit for such particular purpose; (c) be new and merchantable; (d) be of good material and workmanship and free from defects, whether latent or patent; and (e) be free from any claim of any nature by any third person and that Seller will convey clear title thereto to Purchaser. The foregoing warranties shall survive Purchaser's inspection, acceptance and use of the goods and services. Seller hereby extends to Purchaser any and all warranties received from Seller's suppliers and agrees to enforce such warranties on Purchaser's behalf. All Seller's warranties shall run to Purchaser, its successors, assigns, customers and users of products sold by Purchaser. Seller agrees promptly to correct defects in any goods and services not conforming to the foregoing warranties, or to replace such goods and re-perform such services, without expense to Purchaser, when notified by Purchaser, provided Purchaser so elects. In the event of Seller's failure to correct or replace such defective or nonconforming goods or re-perform such services, Purchaser may, after reasonable notice to Seller, make such correction, replacement or performance at Seller's expense. The foregoing warranties and remedies shall be in addition to any warranties and remedies of additional scope herein or otherwise provided by Seller to Purchaser or provided by law.

7. FOR WORK ON PURCHASER'S OR ITS CUSTOMER'S PREMISES

If Seller's work under the P.O. involves operations by Seller on the premises of Purchaser or a customer of Purchaser, Seller shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work and shall defend, indemnify and hold harmless Purchaser against all loss which result in any way from any act of omission of the Seller, its agents, employees, or subcontractors, and Seller shall maintain such liability, workers' compensation and other applicable insurance coverage as will, in Purchaser's sole judgment and consistent with the requirements set forth in Paragraph 18 herein, protect Purchaser from said risks and from any such claims. Seller will provide certificates of insurance evidencing appropriate insurance coverage consistent with the requirements of this Paragraph 7 and Paragraph 18 (including, but not limited to, Purchaser's status as an additional insured) promptly upon the request of the Purchaser.

8. PURCHASER'S PROPERTY

Unless otherwise agreed in writing, all tools, equipment, drawings, computer programs or other material or data furnished to Seller by Purchaser or specially paid for by Purchaser, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain the personal property of Purchaser. Such property, and whenever practical each individual item thereof shall be plainly marked or otherwise adequately identified by Seller as "Property of _____" and shall be safely stored separate from Seller's property. Seller shall not substitute any property for Purchaser's property and shall not use such property except in filling Purchaser's orders. Such property while in Seller's custody or control shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to Purchaser and shall be subject to removal at Purchaser's written request in which event Seller shall prepare such property for shipment and shall redeliver to Purchaser in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense

If this order funds the development of any item; including without limitation any composition of matter, article of manufacture, machine, process, method, software program, or database; or results in any idea, invention, or work of authorship which may be subject to patent, copyright, trademark or trade secret protection; Seller hereby agrees to assign all right, title and interest in and to said item, idea, invention or work of authorship to Purchaser. Seller shall notify Purchaser of the development of such item, idea, invention, or work of authorship and shall cooperate with and assist Purchaser in every reasonable way to perfect its right, title and interest, such as by executing and delivering all additional documents reasonably requested by Purchaser in order to perfect, register, and/or enforce the same, and Purchaser shall reimburse Seller for reasonable costs incurred by Seller in providing such assistance.

9. SELLER'S INFORMATION

Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Purchaser, and which in any way relates to the goods or services covered by this P.O. shall not, unless otherwise specifically agreed to in writing by Purchaser, be deemed to be confidential or proprietary information, and shall be acquired by Purchaser, free from any restrictions (other than a claim for patent infringement), as part of the consideration of this P.O.

10. PURCHASER'S PROPRIETARY INFORMATION

Seller shall keep confidential any technical, process, commercial or economic information derived from drawings, specifications and other data furnished by Purchaser in connection with this P.O. and shall not divulge, export, or use, directly or indirectly such information for the benefit of any other party without obtaining Purchaser's written consent. Except as required for the efficient performance of this P.O., Seller shall not make copies or permit copies to be made of such drawings, specifications, or other data without prior written consent of Purchaser.

11. INTELLECTUAL PROPERTY INDEMNIFICATION

In consideration of Purchaser buying goods or services from Seller, Seller agrees to defend, hold harmless and indemnify Purchaser, its subsidiaries, parent companies, affiliates, agents, representatives, licensees, and assigns, and their respective officers, directors, successors, subcontractors, assigns and customers against and from any and all claims, demands, losses costs, damages, suits, judgments, penalties, expenses and liabilities of any kind or nature whatsoever including reasonable attorney's fees that may be incurred arising directly or indirectly out of or in connection with the possession, use, reuse, sale or resale of said goods or services, including actual or alleged infringement of intellectual property rights, including invention rights, pending applications, patents, trademarks, copyrights, trade names, trade dress, trade secrets, right of privacy and right of publicity. Seller warrants and acknowledges Purchaser's reliance hereon, that Seller has good and lawful title to all goods and services supplied by Seller to Purchaser, and that Seller conveys same free of encumbrance, including infringement of any known intellectual property rights, or if covered by intellectual property rights of Seller and in consideration of Purchaser buying goods or services from Seller, Seller covenants to not sue Purchaser for infringement of said intellectual property rights of Seller, subject to exceptions made in writing by Seller to Purchaser within (30) days hereof and specifically listing each excepted right.

12. CANCELLATION WITH CAUSE

Purchaser shall have the right to cancel and terminate this P.O. partially or entirely upon any of the following events: (a) Seller's failure to provide goods which conform to the warranties provided herein or by law; (b) Seller's failure to

perform or make deliveries as specified in this P.O or as specified in Purchaser's supplemental schedules; (c) Seller's failure to comply with any other terms or conditions of this P.O. or Seller's failure to make progress as to endanger performance of this P.O. in accordance with its terms; (d) Seller's insolvency; (e) Seller's filing of a voluntary petition in bankruptcy or the cessation of Seller's normal business operations; (f) the filing of an involuntary petition to have Seller bankrupt, provided it is not vacated within 30 days from the date of filing; (g) the appointment of a receiver or trustee for Seller, provided such appointment is not vacated within 30 days from the date of such appointment; or (h) the execution by Seller of an assignment for the benefit of creditors. In the event of any such cancellation, Purchaser, without prejudice to any other legal or equitable remedies available to it, shall have the right; (i) to refuse to accept delivery of any and all goods covered by this P.O.; (ii) to return to Seller any and all goods already accepted and to recover from Seller all payments made for such goods (and for freight, storage, handling and other expenses occurred by Purchaser in connection therewith); (iii) to recover any advance payments to Seller for undelivered or resumed goods, and (iv) to purchase elsewhere and charge Seller with any resultant losses, including, without limitation, consequential or incidental damages.

13. CANCELLATION WITHOUT CAUSE AND SUSPENSION

Purchaser may cancel and terminate this P.O. in whole or in part, by written notice whereupon Seller will terminate pursuant to such notice all work started under the P.O. Seller will promptly advise Purchaser of quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make thereof. Seller shall turn over to Purchaser all completed work and work in process, including all designs, drawings, specifications and other documentation and otherwise comply with Purchaser's instructions regarding the disposition of such work and material. Within ninety (90) days after receipt of such notice of termination, Seller will submit all its claims pursuant thereto. Purchaser will have the right to check such claims at any reasonable time by inspecting and auditing the records, facilities, work or materials of Seller relating to this P.O. Purchaser will pay Seller the P.O. price of finished work and the cost to Seller (excluding profit or losses) of work in process and any raw material, based on any audit Purchaser may conduct and generally accepted accounting principals; less, however (i) the reasonable value or cost (whichever is higher) of any items used or sold by Seller without Purchaser's consent; (ii) the agreed value of any items used or sold by Seller with Purchaser's consent; and (iii) the value of any defective, damaged or destroyed work or material. Purchaser will make no payments for finished work, work in process or raw material fabricated or procured by Seller in excess of Purchaser's written releases. Payment made under this clause will constitute Purchaser's only liability in the event this P.O. is terminated as provided herein. Seller's acceptance of such payment will constitute an acknowledgment that Purchaser has fully discharged such liability. In addition to all rights and remedies conferred on the Purchaser hereunder, Purchaser shall have all of the rights and remedies provided by the Uniform Commercial Code.

14. SET-OFF

Purchaser shall be entitled at all times to set off any amount owing at any time from Seller to Purchaser or any of its affiliated companies against any amount payable at any time by Purchaser in connection with this P.O.

15. NON-ASSIGNMENT

Assignment by Seller of this P.O. (by any means, including by operation of law) or any interest therein or any payment due or to become due hereunder, without the written consent of the Purchaser, shall be void. Purchaser in its sole discretion may assign its rights hereunder to affiliates or to third party purchasers of all or substantially all of its assets.

16. COMPLIANCE WITH LAWS

Seller agrees to comply with the applicable provisions of any federal, state, or local laws or ordinance and all orders rules, and regulations issued thereunder, and any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in the contract resulting from acceptance of this P.O. Seller acknowledges and agrees that its responsibility for compliance hereunder includes, but is not limited to, compliance with all applicable environmental laws, rules, regulations and ordinances. Delivery of goods under this P.O. will constitute a certification by Seller that such goods comply with all applicable federal and state packaging and labeling laws. Seller certifies that with respect to orders which exceed \$10,000 that Seller is in compliance with the requirements for non-segregated facilities as set forth in 41CFR Chapter 60-1.8. Seller warrants that each chemical substance constituting or contained in goods sold or otherwise transferred to Purchaser hereunder is on the list of chemical substances compiled and published by the Administrator of the Environmental Protection Administration pursuant to the Toxic Substances Control Act, as amended. Seller certifies and warrants that the

goods supplied hereunder are in compliance with the applicable laws, rules and regulations administered by the Consumer Product Safety Commission, the Food and Drug Administration the Federal Communications Commission and the Environmental Protection Agency. In accepting this P.O., Seller represents that the goods to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, including Section 1 2(a) and the Immigration Reform and Control Act of 1986 and all other immigration laws and regulations and Seller shall certify to that effect for all services or products rendered in connection with this P.O

17. BLANKET PURCHASE ORDER

If this P.O. is identified on the face hereof as a blanket order, it is issued to cover such portion of the Purchaser's goods or services listed on the face hereof as Purchaser may elect to purchase from time to time from Seller, unless expressly provided otherwise on the face hereof. If Purchaser elects to purchase from Seller, an authorized representative of Purchaser will request orally or in writing that Seller make specific deliveries (or shipments) only in the quantities and at times specified by the authorized representative. Under no circumstances shall Purchaser be under any obligation to Seller for goods or services not specifically covered by a request of an authorized representative of Purchaser.

18. INDEMNITY AND INSURANCE

Seller agrees to defend, indemnify and hold harmless Purchaser, its subsidiaries, affiliates, parent companies, agents, representatives, licensees and assigns, and their respective directors, officers, employees, representatives, subcontractors, successors, customers and users of Purchaser's products from and against any and all damages (including consequential and punitive damages) claims liabilities, losses, costs and expenses (including, without limitation, court costs and attorney's fees) arising out of or relating to or resulting in any way from (a) any actual or alleged death of or injury to any person, damage to any property or any other damage or loss that results, or is claimed to result, in whole or in part, from any actual or alleged (i) defects, whether latent or patent, in the goods or services sold to Purchaser hereunder, including without limitation actual or alleged improper construction or design; (ii) breach of any express or implied warranty; or (iii) violation by such goods or services, or their manufacture, possession, use or sale, of any law, statute or ordinance or any governmental or administrative order, rule or regulation, (b) any breach of the covenants and agreements contained in this P.O., including, without limitation, the covenants and agreements contained in Paragraphs 6, 7 and 16, or (c) any act or omission of Seller, its directors, officers, employees, agents, representatives or subcontractors. Seller agrees to comply with Purchaser's insurance conditions as revised from time to time and submit evidence of such insurance. This insurance, at the present time, shall include but not be limited to; Comprehensive General Liability including contractual and products liability. There shall be minimum limits of \$1,000,000/\$3,000,000 for bodily injury and property damage. The certificates must specifically mention that contractual and products liability is provided and must contain a clause covering Seller's assumption of liability. Seller agrees to supply (if needed) automobile liability insurance including owned, non-owned and hired vehicles. Seller shall name Purchaser and its subsidiaries, affiliates, successors and assigns as an additional insureds under Seller's Comprehensive General Liability policy.

19. SHIPPING AND PACKING

All items ordered shall be suitably packed and marked for shipping. Purchaser shall not be charged for any packing, marking or boxing not separately itemized hereon. Seller shall be liable to Purchaser for any loss or damage resulting from Seller's failure to provide adequate protection during shipment. Purchaser and Seller shall assist each other, including the procuring of any documents or information, in filing and/or prosecuting any claims against carriers or others arising out of such shipment.

20. INVOICES

P.O. number, item number, supplier name and address must appear on all shipping documents, invoices, quality certifications, if any, and packing sheets. Invoices (except dating) are paid less cash discount indicated on the face hereof. Taxes, if any, must be separately itemized.

