

In case of any deviations or conflicts between the Terms and Conditions in this document and any Terms and Conditions printed on the back of valid Purchase Orders issued to you, the Terms and Conditions on the Purchase Orders prevail and are controlling.

### 1 Complete agreement

These Terms and Conditions of Purchase ("POTC") and the Purchase Order issued by Buyer shall become a binding agreement upon Seller signing and returning a copy of the Purchase Order to Buyer or upon Seller commencing performance of the Purchase Order or upon Seller otherwise acknowledging acceptance, whichever occurs first. The Purchase Order, together with these Terms and Conditions of Purchase ("POTC"), any specifications, drawings or other documents referred to herein or the Purchase Order, which are incorporated by this reference, constitutes the entire agreement between the parties and all prior negotiations, proposals and writings pertaining to the Purchase Order or the subject matter hereof, are superseded hereby.

Any reference to Seller's quotation, bid or proposal does not imply acceptance of any term, condition or instruction contained in such document. Any invoice, acknowledgement or other communication issued by Seller in connection with the Purchase Order shall be construed to be for record and accounting purposes only. Any terms and conditions stated in such communications shall not be applicable to the Purchase Order and shall not be considered to be Seller's exceptions to the provisions of the Purchase Order or these POTC. Trade custom and/or trade usage is superseded by the Purchase Order and shall not be applicable in the interpretation of the Purchase Order.

In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of the Purchase Order, including these terms and conditions of Purchase, Seller shall immediately submit the matter to Buyer for its determination and shall comply with the determination of Buyer in such matter. All headings and numbering in these terms and conditions of Purchase are for convenience of reference only.

### 2 Shipment and invoices

Unless otherwise specified on the face of the Purchase Order, or otherwise agreed to in writing by the parties, goods must be shipped FOB point of destination (UCC) Itemized packing lists shall accompany each shipment. Buyer's count shall be accepted as final and conclusive on shipments not accompanied by Seller's itemized packing list. Partial shipments, if such are authorized by Buyer, shall not be construed as making the obligations of Seller severable. No charge shall be allowed for packing, shipment or handling unless otherwise stated in the Purchase Order. Seller shall pay for damaged goods resulting from improper packing or marking. All goods received in excess of Purchase Order requirements shall be subject to return for credit at Seller's expense.

Itemized invoices each bearing Buyer's purchase order number must be mailed on the date of shipment to Buyer's Accounts Payable Department. A properly signed Bill of Lading or express receipt must be attached to the invoice.

### 3 Delays

Time of delivery is of essence for the Purchase Order. Seller shall promptly notify Buyer of any actual or anticipated delay of delivery and take all reasonable steps to avoid or end delay without additional cost to Buyer. Where the delay is caused by acts of God, acts of civil or military authority, epidemic, war or riot which are beyond Seller's control and which Seller could not have reasonably foreseen or provided against, Buyer shall have the right to either: (i) terminate, by written notice to Seller, all or part of the Purchase Order without liability to Seller of any kind for the terminated part(s) or (ii) extend the date of delivery or performance for a period equal to the duration of the delay but Seller shall not be entitled to any extra compensation for such delay. Seller shall not be excused from performance hereunder where alternate sources of materials, goods or services are available.

### 4 Title

Seller warrants full and unrestricted title to Buyer for the goods and services furnished by Seller under the Purchase Order, free and clear of any and all liens, restrictions, reservations, security interests or encumbrances. If Buyer makes progress payments to Seller under the Purchase Order, title to the goods ordered hereunder shall pass to Buyer at the time identified in the Purchase Order. Seller shall clearly identify such goods by visible marking or tagging, and Buyer shall have the right, at Buyer's option, to inspect and verify that said goods have been identified as Buyer's property.

Care, custody and control of such goods remain with Seller until such time as Buyer takes physical possession or otherwise agrees in writing by change order to the Purchase Order. All shop drawings, patterns, tools, dies or other items made preparatory to production of any goods are Buyer's property and shall be cared for in accordance with Buyer's instruction and, upon demand, shall be delivered to Buyer.

### 5 Reservation of rights

The making or failure to make any inspection of or payment for the goods or services covered by the Purchase Order shall in no way impair Buyer's right to reject nonconforming or defective goods or services, nor be deemed to constitute acceptance by Buyer of the goods or services, nor in any way affect Seller's obligations under the Purchase Order, notwithstanding Buyer's knowledge of any non-conformity or defect, the substantiality or ease of discovery of any such nonconformity or defect nor Buyer's failure to earlier reject the goods or services.

### 6 Warranty

Seller warrants to Buyer that all goods and services covered by the Purchase Order shall conform to the specifications, drawings and other descriptions supplied or adopted by Buyer, shall be new, first class, fit and sufficient for the purposes for which they are intended as evidenced in the Purchase Order and in the drawings and specifications referred to herein, are of good materials, design and workmanship, free from defects, and shall satisfactorily fulfill the operating conditions specified herein or in connection with the Purchase Order.

The term of this warranty shall be the longer of: (i) the term of warranty provided by the manufacturer of the final product into which the goods purchased herein are incorporated (hereinafter "Final Product") (for example, an automobile component that is installed as original equipment in a motor vehicle shall have the same warranty period extended with the motor vehicle); (ii) the term mandated by applicable law; or (iii) thirty-six months from the date the Final Product is first placed into operation. Seller shall reimburse Buyer for all costs incurred by Buyer caused by or arising out of the failure of any goods furnished hereunder to meet the warranties set forth above or otherwise incorporated into the Purchase Order.

Those costs shall include by way of example, costs of: removal, dealer markups of parts and labor, repair, transportation, storage, and any other incidental and consequential damages caused by the defective product except that costs shall not include Buyer's loss of profits. Seller shall reimburse Buyer for all such costs within forty-five (45) days of receipt of invoice therefore. The above warranties are in addition to all other warranties, express or implied, at law or equity. Seller shall comply with all provisions set forth by Buyer regarding participation in Warranty Sharing.

### 7 Inspection and expediting

Seller shall be responsible for the performance of all activities affecting quality and schedule, including those of its sub-suppliers. Buyer reserves the right to review Seller's quality assurance and quality control procedures, and Seller shall at its expense furnish to Buyer a reasonable number of samples. The Buyer may inspect and witness Seller's testing: Buyer shall be granted access to all parts of Seller's plant(s) or Seller's sub-supplier's plant(s) engaged in the manufacturing or processing of the Purchase Order.

The representative's inspection and witnessing of testing, the lack thereof, or lack of response shall in no way release Seller from any obligations related to the Purchase Order. Seller shall further ensure that these terms and conditions become a part of its purchase orders to sub-suppliers for all goods or services which are used in the products purchased under the Purchase Order. Buyer shall notify Seller at least five (5) calendar days in advance of the date any inspection or test is planned.

If, for any reason, the date should be set back, Seller shall telephone or wire Buyer immediately. Complete and accurate information is required to maintain the overall schedule. Unless otherwise stated, Seller shall furnish the status of engineering, material procurement, production and shipping information every fourteen (14) days, as a minimum.

SELLER SHALL NOT SHIP THE GOODS FURNISHED UNDER THE PURCHASE ORDER WITHOUT BUYER'S FINAL INSPECTION OR A WRITTEN WAIVER OF INSPECTION FROM BUYER. VIOLATION OF THIS REQUIREMENT SHALL CONSTITUTE A REJECTION OF THE GOODS WITH SUBSEQUENT COSTS FOR RETURN OR OTHER ACTION AS WARRANTED TO THE ACCOUNT OF SELLER.

## 8 Patents

Seller shall, at its sole expense, indemnify, hold harmless and defend Buyer, its officers, employees, successors and customers from and against any suit or proceeding brought against Buyer based on a claim that the manufacture, use or sale of any goods or services or any part thereof supplied under the Purchase Order, constitutes infringement of any patent, copyright, trademark or proprietary information right of others, and Seller shall pay all damages and costs awarded therein against Buyer.

Seller shall be promptly notified, in writing, of the suit or proceeding and shall be given adequate authority, information and assistance, at Seller's expense, for the defense of same, subject to the right of Buyer to participate at its expense and to be fully advised by Seller in advance of all actions taken. In case said goods or any part thereof are, in such suit, held to constitute infringement or the sale or use of said goods or parts thereof are enjoined, regardless of whether such determination constitutes a final judgment, Seller shall, at its expense, either procure for Buyer the right to sell and use said goods or part thereof; replace the same with substantially equal but non-infringing goods; or, if approved by Buyer, remove said goods and refund the purchase price and the transportation and installation costs thereof.

The preceding shall not apply to any goods, or any part thereof, manufactured to designs furnished and required by Buyer, nor shall it apply to claims that the sale or the use of a process or use of a combination of the goods supplied by Seller hereunder with other goods infringes any patents, if such process or other goods were not supplied by Seller and Seller's supplying the goods hereunder does not constitute contributory patent infringement.

## 9 Indemnity

For and in consideration of the covenants of Buyer under the Purchase Order, including the agreement of Buyer to pay to Seller the amounts which may become due and payable under the terms of the Purchase Order, Seller hereby agrees to assume the risk of and to release, defend,

indemnify and save harmless Buyers and the related entities, directors, officers, employees, agents and assigns of Buyer ("Indemnitees") from and against all loss, damage, liability, cost and expense (including reasonable attorney's fees) arising out of any injury or death to any person or damage to any property, including damage to or failure of the goods furnished hereunder or damage to other components caused by such failure, resulting from or in any way connected with the performance of the Purchase Order or Seller's breach of the Purchase Order or the goods furnished hereunder, regardless of whether or not such loss, damage, liability, cost or expense is caused in part by an Indemnitee.

Neither this Article nor any other provision of the Purchase Order shall be construed in any circumstances to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of such Indemnitee. The indemnity obligations in the Purchase Order shall be deemed to be modified as required to exclude indemnification which is expressly prohibited by applicable law. Seller acknowledges receipt of specific payment of Ten Dollars (\$10.00), incorporated into the purchase price, as legal consideration of Seller's indemnity under this Article and all other indemnities as may be provided in the Purchase Order.

## 10 Changes

Buyer shall have the right to make changes in the specifications and drawings for goods or services covered by the Purchase Order. If Seller believes that any such change affects the price or delivery date for such goods or services, Seller shall so notify Buyer in writing, with adequate supporting documentation, within five (5) calendar days after receipt of said written direction. Seller shall suspend performance of the change unless thereafter released, in writing, by Buyer to perform said change, and Buyer and Seller shall mutually agree, in writing, upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change. Seller's request for any adjustments shall be deemed waived unless submitted in writing within such five (5) calendar days after Seller receives direction to make such changes.

Seller shall not suspend performance of the unaffected portion of the Purchase Order while Buyer and Seller are in the process of making such changes and any related adjustments, or at any time thereafter unless so instructed in writing by Buyer. If released in writing by Buyer, Seller shall comply with and perform such change in accordance with the terms of the Purchase Order during the time Seller and Buyer require to mutually agree upon an equitable adjustment. No substitutions shall be made in the Purchase Order without the prior written authority of Buyer. No agreement or understanding modifying the conditions or terms of the Purchase Order shall be binding upon Buyer nor shall extra compensation be paid by Buyer unless the agreement or understanding is made in writing.

## 11 Cancellation for default

In the event Seller shall fail to perform any of its obligations under the Purchase Order, be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of Seller's insolvency, or in the event Seller is in default of any provision or requirement of the Purchase Order, Buyer may, by written notice to Seller, without prejudice to any other rights or remedies which Buyer may have, cancel further performance by Seller under the Purchase Order. In the event of such cancellation, Buyer may complete the performance of the Purchase Order by such means as Buyer selects, and Seller shall be responsible for any additional costs incurred by Buyer in so doing.

Seller shall deliver or assign to Buyer any work in progress as Buyer may request. Any amounts due Seller for goods and services completed by Seller in full compliance with the terms of the Purchase Order prior to such cancellation shall be subject to offset Buyer's additional costs of completing the Purchase Order and other damages incurred by Buyer as a result of Seller's default. Waiver by Buyer of any default of Seller shall not be considered to be a waiver by Buyer of any provision of the Purchase Order or of any subsequent default by Seller.

## 12 Cancellation for convenience

Buyer shall have the right to cancel, for its convenience, further performance of all or any separable part of the Purchase Order at any time by written notice to Seller. On the date of such cancellation stated in the notice, Seller shall discontinue all work pertaining to the Purchase Order, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to the Purchase Order, work in progress and completed work both in Seller's and in its suppliers plants pending Buyer's instruction, and shall dispose of same in accordance with Buyer's instructions.

Cancellation payment to Seller or refund to Buyer, if any shall be promptly and mutually agreed to by Buyer and Seller, shall be based on that portion of the work satisfactorily performed to the date of cancellation, including reimbursement for reasonable overhead and profit on such work, reasonable and necessary expenses resulting from the cancellation, as substantiated by documentation satisfactory to and verified by Buyer, disposition of work, material on hand and amounts previously paid by Buyer. Seller shall not be entitled to any loss of profits, contribution to overhead, or incidental, consequential or other damages because of such cancellation. Seller shall deliver or assign all goods with all applicable warranties or dispose of goods as directed by Buyer prior to final payment.

## 13 Laws and regulations

Seller warrants that all goods and services supplied pursuant to the Purchase Order will comply with all applicable

federal and state laws, ordinances and regulations, including but not limited to those concerned with labor, environment and safety. Seller shall provide all permits, certificates and licenses which may be required for the performance of the Purchase Order. Seller also warrants that all goods furnished by Seller in performance of the Purchase Order shall comply fully with the Occupational Safety and Health Act of 1970 (84 USC 1590), as amended, and State plans approved under this Act; the Toxic Substance Control Act (15 USC 2601); and the regulations promulgated under both Acts, to the extent applicable to such equipment and in addition to any other rights or remedies which Buyer may have.

**14 Hazardous materials**

Seller shall notify Buyer in writing upon receipt of the Purchase Order if any goods furnished are subject to laws or regulations relating to hazardous or toxic substances, or, when disposed of, to regulations governing hazardous wastes, or to any other environmental or safety and health regulations.

Seller shall furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure and disposal in a form sufficiently clear for use by Buyer's nontechnical personnel and sufficiently specific to identify all action which the user must take concerning the material. The following certification shall be made on the bill of lading: "This is to certify that the above named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."

**15 Mechanics liens**

Seller's obligations under the Purchase Order shall include keeping premises of Buyer free from all claims, liens and encumbrances. Seller, for itself and all of its contractors and suppliers of any tier, waives all rights of lien against the property and premises of Buyer for labor performed or for goods furnished for the work.

**16 Suspension of performance**

Buyer may, at any time, by written notice to Seller, suspend further performance of all or any portion of the Purchase Order by Seller. Such suspensions shall not exceed one hundred eighty (180) consecutive calendar days each nor aggregate more than two hundred seventy (270) calendar days.

Upon receiving any such notice of suspension, Seller shall promptly suspend further performance of the Purchase Order to the extent specified and, during the period of such suspension, shall properly care for and protect all work in progress and materials, supplies and equipment Seller has on hand for performance of the Purchase Order.

Seller shall use its best efforts to utilize its material, labor and equipment in such a manner as to mitigate costs associated with suspension. Buyer may, at any time, withdraw the suspension as to all or part of the suspended performance by written notice to Seller specifying the effective date and scope of withdrawal, and Seller shall, on the specified date of withdrawal, resume diligent performance of the work for which the suspension is withdrawn.

If Seller believes that any such suspension or withdrawal of suspension justifies modification of the Purchase Order price or time for performance, Seller shall comply with the section entitled CHANGES. In no event shall Seller be entitled to any loss of prospective profits, contributions to overhead or any incidental, consequential or other damages because of such suspension or withdrawals of suspension.

**17 Spare parts**

During the term goods are supplied hereunder and for a period of 12 years after Buyer has completed the last purchase of goods, Seller will supply all of the Buyer's service and replacement requirements for the goods at the last valid prices plus any actual cost differential for manufacturing and packaging, such cost differential to be negotiated but in no case to exceed 20 percent (20%).

**18 Independent contractor**

Seller shall act as an independent contractor and not as an agent or employee of Buyer and shall not contract any portion of the work to a third party without the prior written consent of Buyer.

**19 Confidential information**

The Purchase Order and the documents incorporated herein and all information designated as confidential or proprietary shall be deemed "Confidential Information". Seller agrees to maintain and keep all Confidential Information in confidence and not to disclose it to any third party or use such information for any other purpose, except as authorized by Buyer for the performance of the Purchase Order.

Seller shall not publicize the existence or scope of the Purchase Order without Buyer's written consent, Seller shall require these same agreements on the part of any sub-supplier to whom the information is disclosed. Seller shall return all Confidential Information and copies thereof to Buyer upon written request.

**20 Miscellaneous**

Neither the Purchase Order nor any portion hereof shall be assigned or delegated without Buyer's prior written consent and any such assignment delegation shall be void. Buyer's failure to insist on performance of any term, condition or instruction, or failure to exercise any right or privilege, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, right, privilege or breach.

The Purchase Order shall be subject to the law and jurisdiction of Buyer's principal place of business. The invalidity of any part of these terms and conditions shall not affect the validity of the remaining provisions.

**21 Arbitration**

The parties agree to submit all disputes between them arising out of or related to the Purchase Order or the breach, alleged breach or interpretation thereof to binding arbitration. Within thirty (30) days after either party has notified the other in writing that it is submitting a dispute to arbitration, one arbitrator shall be selected under the then current rules of the American Arbitration Association ("AAA") pertaining to commercial disputes.

The arbitration shall be held in the state of Buyer's principal place of business and shall be conducted in accordance with the Commercial Arbitration rules of the AAA except the AAA shall not have authority to make any award for damages excluded herein. The arbitration award shall be by a written decision and shall be final and binding, and enforceable by any court of competent jurisdiction.

**22 Right to offset**

Buyer, without waiver or limitation of any rights or remedies of Buyer, shall be entitled from time to time, to deduct from any amounts due or owing by Buyer to Seller in connection with the Purchase Order, or any other Purchase Order or Contract with Buyer, any and all amounts owed by Seller to Buyer.

**23 Security**

If Buyer makes any advance or progress payment to Seller under the Purchase Order, upon Buyer's request, Seller agrees to execute a Security Agreement and Financing Statement (both in form satisfactory to Buyer) granting a Security Interest to Buyer, effective in all states of fabrication or manufacture, in the proceeds, raw materials and goods which are purchased, manufactured or otherwise obtained pursuant to the Purchase Order.

**24 Certificate of origin**

Seller agrees to provide Buyer with completed North American Free Trade Agreement (NAFTA) Certificate(s) of Origin, for all NAFTA qualifying products, supplies or other items identified in or sold to Buyer pursuant to the Purchase Order. For products or supplies not qualifying for NAFTA treatment, Seller agrees to provide Buyer with correct Country of Origin information for each such item.

If Seller does not provide either the required Certificate(s) or correct Country of Origin information, Buyer may charge back to Seller the costs of any duties, penalties or other expenses (including reasonable attorney's fees) it is required to pay as a result of such failure.