

Purchase Order Terms and Conditions

1. **CONTRACT:** These Purchase Order Terms and Conditions apply to the purchase order for goods and services of the purchaser ("Buyer") identified on the face of this Order (as defined herein) or the purchase order or other correspondence incorporating these Terms and Conditions, which together form the agreement of the parties (this "Order"). This Order constitutes an offer to purchase products and services solely on these Terms and Conditions, and acceptance is limited to these Terms and Conditions. Any specific terms and conditions in this Order shall supersede any inconsistent terms and conditions herein or in any acknowledgement, invoice, correspondence or other documents proposed by the seller identified in this Order ("Seller"). Reference to any form or communication of Seller shall be for reference purposes only and shall not be deemed to be in acceptance of any terms and conditions therein. When accepted, this Order and any documents incorporated by reference shall constitute the entire contract with reference to its subject matter and shall not be altered, amended, supplemented, assigned, or cancelled without Buyer's written approval. If any provision contained herein is held by a court or governmental entity of competent jurisdiction to be unenforceable, such provision shall be severed from this Order and the remainder of this Order shall remain in full force and effect and such shall be interpreted and enforced consistent with such revision. All terms of this Order shall survive after delivery of the goods and services and performance hereunder.
2. **PRICES AND PAYMENT:** Any prices shown in this Order shall apply to all products and services provided by Seller, unless otherwise agreed to in writing by Buyer. Unless otherwise specified on the face of this Order, payment of undisputed invoices shall be due net 60 days from date of invoice. Seller's prices, whether or not specified in this Order, will at all times be the lowest prevailing market price; and in no event is this Order to be filled at higher prices than last previously quoted or charged without Buyer's prior written consent. Unless otherwise provided in this Order, such prices include all applicable federal, state or provincial, and local taxes and all charges for freight and insurance to deliver the products and services to the destination specified by Buyer, all of which are Seller's responsibility. Payment and discount dates will be calculated from the date that acceptable products and services and acceptable invoice have been received by Buyer. Payment for products and services shall not constitute acceptance thereof. Buyer and its agents and representatives may, at any time during Seller's normal business hours, inspect, examine and audit the records, data, practices and procedures of Seller related to this Order and the products and services subject to this Order to verify the accuracy of Seller's invoices and/or Seller's compliance with the Order. If an audit of Seller's charges determines that Seller has invoiced Buyer for amounts to which Seller is not entitled, Seller will promptly reimburse Buyer or issue a credit on its next invoice in order to correct the inaccuracy. Buyer may deduct or set-off from any amounts due to Seller, any amount of any reasonable claim Buyer may have against Seller.
3. **SHIPPING AND DELIVERY:** Seller shall observe any shipping and packaging instructions contained in this Order. If applicable, Seller shall include Buyer's order identification number on all invoices, bills of lading, packing slips, and containers. In the event Buyer agrees in writing to pay for shipment, Seller shall reroute delivery so as to ensure the lowest tariff rate by a reputable carrier. If shipment is made by higher rated route, or if higher rates are incurred due to improper classification, inaccurate tariff descriptions or other acts of Seller, excess charges will be paid by Seller or deducted from amounts to be paid to Seller. Time is of the essence for this Order. Seller shall promptly notify Buyer in writing of any delay or of any anticipated delay in delivery, setting forth the cause and estimated length of the anticipated delay. Delivery of non-conforming materials shall be considered non-delivery. Buyer's volume and weight determinations shall control.
4. **INSPECTION AND RISK OF LOSS:** All products and services shall be received subject to Buyer's inspection and rejection. At its election, Buyer may inspect the goods under this Order at Seller's plant. Acceptance shall not remove Seller's responsibility for any defect or breach of warranty discovered by subsequent inspection, analysis, manufacturing operations, use or otherwise. If requested by Buyer, Seller shall provide a certified report of analysis or test of materials incorporated in any product or service and Seller acknowledges that Buyer, in reliance upon Seller's warranties hereunder, may use the products and services without first testing them. Regardless of real or apparent compliance of the products with the specifications, Buyer reserves the right to reject or revoke acceptance of any products which do not exhibit the properties contained in any Buyer approved samples. Payment, if any, made for any products or services rejected hereunder shall be refunded promptly by Seller. Any product or service that is defective or not in accordance with any of Seller's warranties, may, at Buyer's sole discretion, be held on behalf of Seller, and at Seller's risk and expense for handling, transportation, and storage, and, of Seller so directs, will be returned at Seller's expense. Buyer at all times may exercise any other rights at law or in equity. No replacement or substitution shall be made for any such product or service unless authorized in writing by Buyer.
5. **INSTALLATION AND WORK ON BUYER'S PREMISES; INSURANCE:**
 - (a) If this Order involves work to be done on Buyer's premises, then any general service conditions agreed in writing by the parties shall have priority over this Order; and in the event of a conflict in terms, this Order will incorporate such general conditions, and this paragraph shall apply. In addition, after the completion of the work, Seller shall leave the work area clean and ready for use and shall remove all tools, scaffolding and surplus materials. In the performance of the work Seller will comply with all safety regulations issued by Buyer and all Buyer's company policies supplied to Seller and will require like compliance by all subcontractors.
 - (b) Seller shall maintain insurance for Worker's Compensation and Employer's liability and any other legally required employer's insurance in accordance with and meeting all requirements of applicable state and federal law, and Commercial General Liability written on an occurrence basis including broad form property damage, premises/operations, products/completed operations, and contractual liability, and Automobile Liability covering bodily injury and property damage, written on an occurrence basis covering all owned, leased, hired and non-owned vehicles, and Excess (Umbrella) Liability insurance in such face amounts and on such terms as may be specified by Buyer, and shall provide Buyer upon request with a certificate of insurance evidencing such coverage naming Buyer as an additional insured. All coverage shall be placed with insurance companies rated not less than A in the AM Best Rating Guide.
6. **WARRANTY:**
 - (a) Seller expressly warrants that all products, materials, and services supplied herein will strictly conform to the requirements, specifications, samples or other descriptions furnished or specified by Buyer or Seller, be free from contaminants or hazardous materials, be adequately packaged and labeled, of merchantable quality free from defects in material and workmanship, fit for the purposes for which purchased and be transferred free from any lien, security interest, or other claim. These warranties shall be assignable by Buyer. Seller will correct all non-confirming products and services and will be responsible for all costs of field repair and return freight incurred by Buyer or Seller in connection with the warranty provided hereunder. All warranties shall survive any inspection or acceptance by Buyer.
 - (b) Seller also warrants that it will not, without Buyer's prior written consent, materially change the raw materials, composition, manufacturing location or process or test method used to produce the products from those present when Buyer approved the products.

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7. **INDEMNITY:** Seller shall indemnify and hold harmless Buyer and all of its subsidiaries, affiliates, agents and employees, and all persons claiming through any of them (including Buyer's customers) from and against all claims, demands, costs (including attorney's fees and liens from laborers, mechanics and materialmen), expenses and direct, indirect, special, incidental and consequential damages caused by or alleged to be caused by, in whole or in part, any goods or services supplied by Seller, or work done for or on Buyer's premises, any breach by Seller of any of its obligations under this Order or any other act, omission or negligence of Seller or any of its subcontractors or suppliers. Buyer shall have the right to retain out of any payment due under this Order, an amount, sufficient to indemnify Buyer completely against such lien or claim. Should there prove to be any such lien or claim after all payments are made, Seller shall refund to Buyer all moneys that the latter may be obligated to pay in discharging any such lien or claim.
8. **FORCE MAJEURE:** Neither party will be responsible for delays, failure, or omissions hereunder due to war, fire, flood, strikes or other labor disturbance, Acts of God, governmental order or requirement, delays by carriers, or due to other cause or accident beyond its control. In such event, the party suffering the impediment to action will take reasonable steps to remove or otherwise address it as soon as practicable and will notify the other party in writing of the events causing delay or default in performance within three (3) business days after the occurrence of the force majeure event, summarizing the nature and cause thereof.
9. **TERMINATION:**
- (a) **Termination in General:** Buyer may at any time, without cause, terminate this Order, in whole or in part, upon written notice to Seller. In the event of such termination of this Order, Buyer shall pay for all products and services delivered and accepted and for the cost incurred by Seller for goods and services in process, not to exceed that part of the price specified herein which is attributable to such cancelled products and services. Such payment shall constitute Seller's sole remedy.
- (b) **Termination for Default:** In the event Buyer terminates this Order in whole or in part as a result of Seller's breach or default under this Agreement, Buyer reserves all its legal rights and remedies available at law or in equity. Seller shall continue performance of any non-terminated portion of the Order.
10. **PRICE AND SPECIFICATION CHANGES:** Buyer may from time to time by written instructions, or drawings issued to Seller make changes to any aspect of this Order, and the provisions of this Order shall apply to all such changes, additions and modifications. No work, addition or alteration will be paid for unless performed pursuant to and in accordance with Buyer's written change order. If any work or change in work affects the price or the time required for performance, Seller shall notify Buyer thereof within 15 days of any change order and no adjustment in price or schedule shall be binding upon Buyer unless Buyer has agreed in writing to the same. However, nothing herein shall excuse Seller from immediately proceeding with the change.
11. **COMPLIANCE:** Seller certifies that it complies with all applicable federal, state or provincial, and local ordinances, regulations, statutes, rules and orders covering the production, sales and delivery of the products or services specified herein, including, without limitation, laws relating to worker, occupational or industrial health and safety, privacy and the collection, use and disclosure of personal information, environmental matters, U.S. export controls, U.S. economic sanctions, and anti-bribery laws (e.g., the U.S. Foreign Corrupt Practices Act, the UK Bribery Act). Seller shall not take any actions that would cause Buyer to be in violation of any of the above laws, including anti-bribery laws and U.S. export controls and economic sanctions. Seller shall furnish Buyer with such evidence of compliance as Buyer may request at any time. Specifically, Seller certifies that any and all chemical substances contained in products sold hereunder have been and shall be reported in compliance with any applicable present and future inventory reporting requirements under the U.S. Toxic Substances Control Act, or any other similar, applicable legislation.
- Seller and its permitted subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.
12. **GOVERNING LAW; LANGUAGE:**
- (a) **Governing Law:** Unless otherwise specified in the Addendum or a writing signed by Buyer, any claim or controversy arising out of or relating to this Order or to matters of the place of contracting, interpretation, performance, breach, and obligations of the parties will be construed and adjudicated in accordance with the laws of the state or province in which Buyer has its principal place of business. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Order.
- (b) **Language:** The parties have expressly requested that this agreement and all documents related thereto be written in English, and the English language version of this agreement shall supersede any translation in any other language. *Les parties aux présentes ont expressément demandé que cette entente et tout document s'y rattachant soient rédigés en langue anglaise, et la version anglaise de cette entente et tels documents supplantera n'importe quelle traduction dans aucune autre langue.*
13. **FORUM SELECTION FOR DISPUTES:** Unless otherwise specified in the Addendum or a writing signed by Buyer, any action or legal proceeding of any kind arising out of or relating to this Order or a breach thereof will be brought exclusively in an appropriate court of competent jurisdiction (state, provincial, or federal) located in the city and state or province in which Buyer has its principal place of business.
14. **ASSIGNMENT:** This Order shall not be assigned in whole or in part, either voluntarily or by operation of law, without Buyer's prior written consent. This Order will be binding upon and enure to the benefit of, Buyer, Seller and their respective permitted successors and assigns.
15. **INTELLECTUAL PROPERTY:** Seller shall indemnify, defend and hold harmless Buyer from and against any and all loss, liability damages or expense including attorneys' fees incurred by Buyer by reason of any claim or suit for alleged infringement of any copyright, trademark, patent or other proprietary right resulting from or arising in connection with the manufacture, sale, use, performance, or other disposition of any goods or materials furnished hereunder, or the performance of any work hereunder. Seller shall defend any such claim or suit and pay all costs and expenses related or incidental thereto; provided, however, that Buyer shall have the right, at its option, to participate in the defense of any such claim or suit without relieving Seller of any obligations hereunder.
16. **BUYER'S SPECIFICATIONS, TOOLING AND TECHNICAL DATA:** Any specifications, drawings, notes, instructions, tooling or technical data or information furnished by Buyer or referred to in this Order shall be part of this Order as if fully set forth herein and shall remain the property of Buyer and be returned to Buyer upon request. Seller shall not, without Buyer's prior written consent, disclose any such document, tooling or information contained therein to any party other than those employees of Seller who require the same for the performances of their duties in connection with this Order, or use any such document, tooling or information in any other way. Any information disclosed to Buyer shall not be deemed to be confidential. Buyer retains all

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rights to the specifications, tooling and other intellectual property in the products covered by this Order provided by or created with significant input from Buyer.

- 17. PERMITS AND LICENSES:** Seller shall obtain at its expense and possess at all times during performance hereunder, all necessary releases, permits, licenses or other authorizations required to fulfill Seller's obligations hereunder. Seller shall give all necessary notices and pay all fees required by law.
- 18. FEDERAL GOVERNMENT CONTRACTS:** If the products covered by this Order are to be used by Buyer in whole or in part for the performance of a government contract for the U.S. federal government, all applicable provisions of such contract and of the Federal Acquisition Regulations, 48 C.F.R. Chapter 1 (Parts 1-99), or if such federal government contract relates to the Department of Defense, of the Defense Federal Regulations, 48 C.F.R. Chapter 2 (Parts 201-299), are incorporated herein by reference. Seller shall execute certificates of compliance as required by Buyer.
- 19. SUBCONTRACTORS AND INDEPENDENT CONTRACTORS:**
- (a) **Subcontractors:** If this Order involves the use of subcontractors, the names and references of all proposed subcontractors shall be submitted in writing by Seller to Buyer, and Buyer shall have the right to reject such subcontractors which it deems unsatisfactory, acting in its sole discretion. Seller shall not subcontract any portion of the work without the written permission of Buyer. Such permission shall not, however, relieve Seller from responsibility for the conduct and work of all subcontractors. Seller will engage only experienced subcontractors of high standing and reputation that are qualified and licensed to carry out the applicable work. Seller, in subcontracting any part of the work shall bind each subcontractor by a contract incorporating all terms and conditions provided for by this Order, in so far as such terms and conditions may be applicable to the work of the subcontractor, without in any way creating any contractual relations between such subcontractor and Buyer. Seller shall properly direct and control the subcontractors, being responsible for the completion of the work of Seller and that of the subcontractors.
- (b) **Independent Contractors:** Seller has no authority to hire any persons on Buyer's behalf and each person employed or used by Seller shall be Seller's and not Buyer's employee, servant or agent. Seller is performing all of the work specified in the Order as an independent contractor.
- 20. PUBLICITY:** Except with the express prior written consent of Buyer, Seller may not issue any news releases, advertisements or other publicity with respect to the award or existence of the Order, any products to be delivered or services to be performed hereunder, or the existence or terms of the relationship between Seller and Buyer.