

# THE PURCHASE ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS

All items shall be suitably packed, marked and shipped in accordance with the requirements of common carriers in a manner to secure lowest transportation cost, and no additional charge shall be made to the Buyer, therefore unless otherwise stated on the face hereof.

No charge shall be made by Seller for drayage or storage unless agreed upon in writing by Buyer.

Unless otherwise otherwise specified herein, Seller shall properly mark each package with Buyer's order number, and where multiple packages, comprise a single shipment, each package shall also be consecutively numbered, Purchase Order Number and package numbers shall be shown on Packing Slips, Bills of Lading and invoices.

Packing Slips must accompany each shipment.

Seller shall describe items on Bill of Lading or other shipping receipt.

Seller shall route shipment in accordance with instructions issued by Buyer's Purchasing Department.

Material supplied hereunder, which is shipped F.O.B. Point of Origin, is not to be insured against loss during transportation in excess of values required by law or regulation.

## GENERAL

This Purchase Order expressly limits acceptance to the terms and conditions stated herein, the specifications hereto and any additional terms and conditions incorporated into and attached hereto. This Purchase Order supercedes all prior purchase orders, agreements, discussions, negotiations, proposals, or communications between the parties and constitutes the entire final contract between the parties which may not be varied except by express written modification signed by Buyer's duly authorized representative. This Purchase Order becomes a binding contract subject to the terms and conditions set forth and incorporated herein when accepted by Seller's acknowledgment or by Seller's performance. Buyer shall not be bound by any terms and conditions contained in Seller's forms which in any way alter the terms and conditions of this Purchase Order. The receipt of this Purchase Order by Seller is notice to Seller of objection by Buyer to all other terms, warranties or conditions contained in Seller's forms. Neither the failure by Buyer to object to the acknowledgment or any other communication from Seller shall be deemed a waiver of the provisions hereof or an approval of any terms, warranties or conditions which are additional to, different from, or conflicting with the terms, warranties and conditions contained in this Purchase Order. The terms and conditions included in this Purchase Order shall govern and control, regardless of whether Seller's acknowledgment, communication, or other forms precede or succeed this document and regardless of whether the Seller's forms indicate that the terms and conditions therein contained are controlling and cannot be varied.

By acceptance of this order, Seller agrees that the prices contained herein are not in excess of Seller's list, catalogue or published prices that the said prices are not higher than prices charged to other purchasers purchasing similar equipment that the said prices are not in excess of the prices provided by any applicable law, government decree, order or regulation.

Time is of the essence in the delivery of goods hereunder. If goods are not delivered on the specified delivery date. Buyer shall, have the right to reject the delivery and/or cancel the balance of the order. Seller shall not ship goods to Buyer ahead of the schedule unless authorized in writing by Buyer. Buyer shall have the right, but shall not be obligated to return to Seller, at Seller's expense, any goods delivered more than 10 days ahead of the scheduled delivery date.

Risk of loss and/or damage for each shipment shall be upon Seller under such shipment is physically delivered to Buyer at the address indicated on the reverse side.

Seller warrants that items covered by this order will conform to the specifications, drawings, samples or other description furnished or specified by Buyer, or furnished by Seller and accepted by Buyer, and will be merchantable, of good material and workmanship and free from defect. Without excluding other warranties. Seller expressly warrants that all the material covered by this order which is recommended by Seller for a purpose revealed to Seller by Buyer or is in accordance with Seller's specifications, will be fit and sufficient for the purpose intended.

Goods ordered pursuant hereto shall be subject to inspection and testing by Buyer or its designated agents, at any time or place during the period of manufacture or at anytime thereafter. Notwithstanding any prior inspection, Buyer reserves the rights specified herein with respect to any merchandise which shall prove to be defective, unmerchantable or in breach of the warranties set forth herein, during or after manufacturing operations.

If any of the goods delivered by Seller are found to be defective, unmerchantable or in breach of the warranties set forth herein, in addition to any other remedies Buyer may have, at law or in equity, it may (a) reject, such goods and hold them at the Seller's expense, including but not limited to holding Seller responsible for the cost of any extraordinary inspections, (b) return the goods to the Seller, at the Seller's expense, for replacement or credit or refund at Buyer's option, (c) retain the goods at an equitable reduction in purchase price, (d) repair the goods at the Seller's expense, or (e) hold Seller liable for Buyer's additional cost in ordering the goods elsewhere plus proximate and consequential damages.

Acceptance of all or any part of the goods shall not be deemed to be a waiver of Buyer's right either to cancel or to return all or any portion of the goods because of failure to conform to order, or by reason of defects, latent or patent or other breach of warranty, or to make any claim for damages, including manufacturing costs and loss of profits or other special damages occasioned the Buyer. Such rights shall be in addition to any other remedies provided by law.

All drawings, specifications, and other technical data or information furnished by Buyer hereunder shall remain the property of Buyer and shall not be disclosed to others or used for manufacturing purposes, for other than Buyer's order, without Buyer's prior written permission. Seller agrees to indemnify Buyer and its customers against all judgments, decrees, costs and expenses arising from any claim of infringement in connection with the use or sale of the articles delivered hereunder, alone, or in combination according to Seller's specifications or recommendations, unless the articles are specially made for Buyer from a design originated by Buyer and such infringement shall have necessarily resulted from Seller's compliance with special design requirements set forth in specifications or drawings furnished by Buyer. In the event this order involves payment for research or development work, Seller agrees to, and hereby does grant Buyer its successors and assigns a non-exclusive, irrevocable and royalty-free license under any inventions, improvements or discoveries conceived or first actually reduced to practice in connection with such research or development work.

Seller shall maintain any and all particulars relative to Seller's agreement with Buyer and/or Buyer's agents in the strictest of confidence and shall keep any confidential or technical information including but not limited to drawings and specifications, supplied to it by Buyer in the strictest of confidence and shall not use or disclose such information for any purpose unless Buyer has consented to such use or disclosure in writing. All such information shall remain the property of Buyer and shall be returned to Buyer upon request.

**CHANGES:** Buyer may, at any time, by a written order make changes within the general scope of this order in any one or more of the following: (a) work to be performed; (b) method of shipment or packing; and (c) schedule and place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for performance of this order, an equitable adjustment shall be made in the order price or delivery schedule, or both, and the order shall be modified in writing accordingly. Seller shall submit its claim for adjustment under this clause within 30 days from the receipt from Buyer of the notification of change. The claim shall indicate the nature of the changes in the cost of performance and the amounts thereof, including obsolescence charges, if any. Buyer, may, however, receive and act upon any claim filed subsequent to said 30-day period but prior to final payment under this order if it decides that the facts justify such action. However, nothing in this clause shall excuse Seller from proceeding with the order as changed. Where the cost of property made obsolete or excess as a result of a change is included in a requested adjustment. Buyer shall have the right to prescribe the manner of disposition of such property.

**TERMINATION FOR DEFAULT:** Whenever Seller (1) fails to make reasonable progress in performance, or fails to make scheduled delivery of items or to perform services called for herein within the time required by this order or (2) fails to perform any other provisions of this order; Buyer may be a ten days' written notice of termination to Seller, either delivered personally or by first class or registered mail, terminate performance of work under this order in whole or in part. Buyer may immediately terminate the contract resulting from the acceptance of this order, in the event of the happening of any of the following: Insolvency of Seller, the filing of a voluntary petition in bankruptcy, filing of an involuntary petition to have Seller declared bankrupt provided it is not vacated within 30 days from the date of filing appointment of a Receiver or Trustee for Seller.

**LABOR DISPUTES:** Whenever an actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller will immediately give notice to the Buyer. Such notice shall include all relevant information with respect to such dispute.

**REGULATORY COMPLIANCE:** Seller represents that the goods covered by this order have been manufactured and sold in compliance with the requirements of the Robinson-Patman Act, the Fair Labor Standards Act and other federal, state and municipal laws, rules and regulations as applicable.

**EQUAL EMPLOYMENT OPPORTUNITY:** Seller is on notice that the Buyer may utilize the goods specified in this order in the manufacture of products destined for sale to the U.S. Government. Seller is therefore deemed to have assumed the obligation of compliance with Executive Order 11246, and unless otherwise exempt under the rules, regulations and orders of the Secretary of Labor or pursuant to Federal Procurement Regulations (FPR 1 12804f) or the Armed Services Procurement Regulations (ASPR 12-802), this order is subject to the requirements of the Equal Employment Opportunity clauses as set for in FPR 1-12-8032 and ASPR 12-802(a), said clause being herewith incorporated into this order by reference.

**GOVERNING LAW:** The contract and the performance of the parties hereunder shall be construed in accordance and governed by the law of the state shown in buyer's address in the heading of the Order.

**OCCUPATIONAL SAFETY & HEALTH ACT:** In addition to any other representations or warranties herein made and set forth, and not in limitation thereof, the Seller hereby certifies that at the time of delivery the products, supplies and/or equipment delivered to the Buyer hereunder are free from unsafe and harmful conditions and comply with all applicable federal, state and local safety and health laws.

**EMPLOYMENT OF THE HANDICAPPED:** Seller agrees to comply with the provisions of the Rehabilitation Act of 1973, Act of September 26, 1973, Pub. L. 93-112, 87 Stat. 394, and the rules, regulations and relevant orders of the Department of Labor and of the Department of Health, Education and Welfare. The affirmative action clause 20 C.F.R. 741.3 as it may hereafter be amended, is specifically incorporated herein and made a part hereof by reference

**ENTIRE AGREEMENT:** This contract contains the entire agreement of the parties. It may not be modified or terminated orally, and no claimed modification, termination or waiver shall be deemed effected by Seller's acknowledgment or confirmation containing other or different terms. All titles to clauses contained in this order are for identification only and shall not be construed as being a substantive part of the agreement.