

# TERMS AND CONDITIONS OF PURCHASE

1. The terms and conditions contained herein constitute the final and complete statement of the agreement between the parties. By Seller's acknowledgement of this order or commencement of performance thereon, Seller shall be deemed to have accepted these terms and conditions. No modification of these terms and conditions and no term or condition stated by Seller in accepting or acknowledging this order shall be binding on Purchaser unless in each case the term or condition has been approved in writing by an authorized representative of Purchaser and actually received by Seller. Purchaser hereby gives Seller notice of its objection to any term or condition stated by Seller which is different from or additional to the terms and conditions contained herein.
2. The attached policies, procedures, terms, and/or conditions, if any, of a customer of Purchaser are applicable to the work, goods and materials covered by this order, and are part of the terms and conditions of this order. Seller's acceptance of this order, either by acknowledgment or by commencement of performance shall be an acceptance of all such policies, procedures, terms and conditions.
3. Unless otherwise stated in writing by Seller prior to commencement of performance of this order, the price shown on this order for any tools or tooling to be provided by Seller is the full and complete price for such tools or tooling including the price for any design or engineering services and materials incorporated therein. Upon payment of the price therefor by Purchaser, all such tools or tooling shall become the sole and exclusive property of Purchaser and shall be released by Seller to Purchaser within ten (10) days after receipt of notification and demand from Purchaser. Should Seller fail to comply within this time period Purchaser shall have the absolute right and option, without waiving any other right or remedy of Purchaser to have duplicate tooling constructed and Seller shall be responsible for all losses, costs and expenses suffered by Purchaser as a result of Seller failing to release the tools or tooling in accordance with this paragraph.
4. No boxing, packing or cartage charges will be allowed by Purchaser unless specifically authorized on the face of this order. Each shipment shall be suitably packed to secure lowest transportation cost and in accordance with requirements of common carriers.
5. Seller will invoice in triplicate for each Purchase Order number.
6. It shall be understood that the cash discount period to Purchaser will date from the receipt of the invoice and not from the date of the invoice.
7. The Seller expressly warrants that all the work, goods and materials covered by this order are free from defects, are of merchantable quality, are of the quality, quantity, size, description and dimensions specified and otherwise conform to Purchaser's specifications, and are free from the claim of any third person by way of actual or alleged infringement of any patent, trademark, trade name, trade dress, trade secret, or any similar right. Such express warranty shall not be deemed waived by reason of either the acceptance of the work, goods or materials, or the payment therefor, or both. When Purchaser calls for a sample or drawings for inspection, it does so only to assist the Seller, and although the sample or drawings are approved the Seller will still be held responsible in the event the work, goods or materials do not conform exactly to specifications.
8. The Seller of the work, goods or materials described herein covenants that it will, at its own expense, defend any suit, claim, demand or action brought against the Purchaser, its affiliated companies, or anyone selling or using Purchaser's products, for any infringement or alleged infringement of any patent, copyright, trademark, trade name, trade dress, trade secret, or any similar right, by reason of sale or use of such work, goods or materials, and Seller agrees that it will pay all costs, damages and profits recoverable in any such suit, claim, demand or action, and will reimburse Purchaser for any and all expenses in connection therewith.
9. All goods or materials delivered or work performed under this order is subject to inspection and rejection by Purchaser in its sole judgement. Purchaser may reject any damaged, defective or otherwise nonconforming goods, materials or work within sixty (60) days after receipt thereof by Purchaser, whether or not acceptance or payment has already taken place. Any inspection by purchaser of the goods or materials in work shall not relieve Seller of any of its responsibilities.
10. At its option, and without waiving any other right or remedy available to it, Purchaser may return any defective, damaged or otherwise nonconforming goods, materials, or work to Seller, such return to be at Seller's risk and expense. Purchaser shall be given credit at the invoice price, for such returns, or at Purchaser's option, either a cash refund at the invoice price or replacement, but in no event shall such goods, materials or work be replaced by Seller without written authorization from Purchaser.
11. Purchaser's count as to the quantity of goods or materials delivered shall be accepted as final and conclusive on all shipments which are not accompanied by a packing slip indicating the quantity delivered. Unless specified otherwise, all goods or materials delivered on this order must not be in excess of the quantity ordered. Any overshipment may be returned at Seller's expense.
12. Purchaser reserves the right to place in Seller's plant at Purchaser's expense an inspector or inspectors who shall be permitted to inspect before shipment, or during the process of manufacture, any work materials or goods on this order. Any such inspection shall not relieve Seller of any of its responsibility.
13. The Seller agrees to indemnify, defend, and hold the Purchaser (and Purchaser's agents, employees, officers, directors, affiliated companies and customers) harmless from any and all loss, claim, action, cost, liability (whether statutory, civil or equitable), litigation, and expense (including counsel, consultant and expert witness fees) arising, growing out of, or in any way connected with, in whole or in part, the performance of this Purchase order, including without limitation, any liability for personal injury, death or damage to property, arising as a result of any actual or alleged negligent or willful act or omission on the part of Seller, including without limitation any actual or alleged defect in the work, goods and materials ordered herein, or by reason of the design or construction thereof, and Seller agrees to reimburse the Purchaser for any and all expenses in connection therewith. Purchaser shall have the right (but not the obligation) to participate in the defense of any action brought against Purchaser but defended by Seller.
14. In accepting this order Seller shall be deemed to represent that the goods, materials or work to be furnished hereunder were or will be produced in compliance with the requirements of the Fair Labor Standards Act, as amended. The following statement is incorporated by reference in all invoices hereinafter rendered by Seller to Purchaser, whether or not specifically in each invoice.

"We hereby certify that all goods, materials and work covered by this invoice were produced in compliance with the requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act as amended from time to time, and of the regulations and orders of the United States Department of Labor issued under Section 14, as amended from time to time"

On request Seller shall furnish Purchaser certificates of compliance with all such laws, orders and regulations.

15. Seller certifies and warrants that the items furnished or the services provided herein shall be in strict conformity with all applicable federal, state and local statutes and regulations, including without limitation, the standards promulgated pursuant to the Occupational Safety and Health Act, as amended, Executive Order Nos. 11246, 11625, 11701, 11759 and 12136, Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended, the Veteran's Compensation, Education and Employment Amendments of 1982, and the rules, regulations, and relevant orders of the Secretary of labor pertaining to said Executive Orders and resulting from Seller's failure to comply with said statutes, regulations and orders.

16. In the event of fire, flood, accident or other casualty, or labor troubles, or any cause or conditions beyond Purchaser's reasonable control which interfered with Purchaser's use of the goods, materials or work covered by this order, Purchaser may, at its option, either cancel entirely or reschedule delivery or suspend performance of such portions of the goods, materials or work not yet received by Purchaser and covered by this order as Purchaser is rendered unable to use because of any of the aforementioned causes. A suspension of performance pursuant to this clause shall not have the effect of abrogating this contract, but immediately upon the termination of the cause of disability this contract shall again come into full force and effect, and the time of performance of any obligation prevented or delayed as aforesaid and the term of the contract shall be extended for a period equal to the period of suspension, but in no event shall such extended term of contract be of longer duration than the unexpired term of contract at the time of suspension.

17. Purchaser reserves the right to cancel all or any part of this order not filled as specified or not delivered or otherwise performed within the time specified, without prejudice to its other rights and Seller agrees that Purchaser may return part or all of any shipment, so made and may charge Seller with any loss or expense sustained as a result of such failure to deliver. Seller shall be excused for delays in making deliveries in accordance with the delivery schedule agreed upon any Purchase Order when due to causes beyond the Seller's reasonable control, i.e., strikes, Acts of God, war, etc. However, Seller shall notify Purchaser in writing of the cause of any such delays within five (5) days of the time Seller first knows of the occurrence thereof.

18. Risk of loss shall be on Seller until the goods, materials or other work are received by the Purchaser, if previously agreed to by Purchaser, common carrier.

19. Purchaser reserves the right to make changes to this order. If any such changes cause a substantial variation in the cost of, or the time required for, furnishing the goods, materials or work covered hereby, an equitable adjustment shall be made in the contract price or delivery schedule or both. Any claim for adjustment hereunder must be asserted within thirty (30) days after such change is ordered. Failure of the Seller to assert its claim shall operate as a waiver.

20. Drawings, models, samples, data designs, specifications, tools, inventions and other technical information supplied by Purchaser shall remain Purchaser's property and shall be held in confidence by Seller. Such information shall not be reproduced, used or disclosed to others by Seller without Purchaser's prior written consent and shall be returned to Purchaser upon completion of this Purchase Order or upon demand. Any information which Seller may disclose to Purchaser with respect to the design, manufacture, sale or use of the goods, materials or work covered by this Purchase Order shall be deemed to have been disclosed as part of the consideration for this Purchase Order, and Seller shall not assert any claim against Purchaser by reason of Purchaser's use thereof. Subject to the other terms and conditions contained herein, the purchase price of this Purchase Order is full consideration for any design work performed by Seller in connection with this Purchase Order and incorporated in the articles to be delivered hereunder and Seller therefore shall not supply such articles to others without Purchaser's written permission. Unless Purchaser's written consent is first obtained, Seller shall not in any manner advertise or publish or release for publication any statement mentioning Purchaser or depicting or describing subject matter purchased, or the fact that Seller has furnished or contracted to furnish to Purchaser articles, required by this order, or quote the opinion of any employee of purchaser. The Seller shall not disclose any information relating to this order to any person not entitled to receive it.

21. Purchaser shall retain title to any designs, sketches, drawings, blueprints, patterns, dies, models, molds, tools, special appliances and materials furnished by or paid for by Purchaser in connection with this order ("Purchaser's Property"). While in Seller's possession, Seller shall ensure that Purchaser's Property is identified as such (by tagging, marking, etc.) Seller shall bear the risk for the use and possession of Purchaser's Property, and Seller shall replace or pay to Purchaser the replacement value, at Purchaser's option, of any of Purchaser's Property which is lost, damaged or destroyed. Purchaser's Property shall be used exclusively in the production of articles or the provision of services required by this Purchase Order, and shall not be used for the production of larger quantities than those specified herein, or in production, manufacture or design of any other article or for the provision of any other service without Purchaser's prior written consent. Purchaser's Property shall be subject to disposition by Purchaser at any and all times, and at the termination of this order shall be returned to Purchaser, including any used materials furnished by Purchaser and any spoiled or defective materials or products which may contain any secret, proprietary, or patented device, unless Purchaser shall otherwise direct in writing. Nothing in this paragraph shall be construed as imposing any obligation on Purchaser to furnish to Seller any such Purchaser's Property.

22. The Seller of goods, materials or work which are supplied, sold or otherwise transferred to Purchaser according to specifications of Purchaser hereby assigns all proprietary information, including inventions, improvements, modifications, changes, and know-how, without regard to the patentability thereof resulting from the performance of this order and agrees to promptly disclose to Purchaser in writing, such proprietary information.

23. Seller agrees to execute all assignments and papers and do such other acts as are required to protect Purchaser's interests in said goods, materials or work, which are supplied, sold or otherwise transferred to Purchaser according to specifications, modifications, or special orders or directions of Purchaser or improvements, modifications or changes thereto.

24. Seller shall not assign this order or subcontract the work called for therein without first obtaining the written permission of Purchaser.

25. Neither failure nor delay on the part of Purchaser to assert any right or remedy hereunder or to insist upon strict performance of any provision hereof shall operate as a waiver of such right or remedy, nor shall any single or partial exercise of any such right or remedy preclude any other of further exercise or the exercise of any other right or remedy.

26. Seller shall not modify the performance, design, shape, form, color or chemical formulation of anything ordered by Purchaser without prior written notification to Purchaser of any such modification. Upon receipt of such notification, Purchaser shall have the right, at its sole option, to either accept such modification or cancel all or any part of this order.

27. The validity, construction and interpretation of this purchase order and any resulting contract, the sale of the goods or materials or the performance of the work specified herein, and the rights and duties of the parties with respect to said purchase order, contract, sale and performance shall be governed by the laws of the State of Tennessee.

28. Purchaser may at any time insist upon strict compliance with the foregoing terms and conditions, notwithstanding any previous custom, practice or course of dealing to the contrary.

29. If the goods, materials or work purchased is according to Purchaser's design and specification, delete paragraph 8 and add the following sentence to paragraph 13; notwithstanding the above, Seller shall not indemnify and hold Purchaser harmless where loss, cost, liability, or expense are the result of defects in design or specifications.

30. Purchaser shall have the right to at any time set-off any amount owing by Seller to Purchaser or any of its affiliated companies against any amount due and owing to Seller on this order.

## OCCUPATIONAL SAFETY AND HEALTH ACT REQUIREMENTS

31. All equipment, machinery and supplies produced on this order must comply with all standards and requirements of the Occupational Safety and Health Act, Public Law 91-596 of 1970. Seller agrees to indemnify and hold harmless Purchaser against any claims, damages, penalties or expense arising from the failure of any equipment, machinery or supplies supplied hereunder to meet the appropriate standards or requirements of such law.

32. If product listed in the Purchase Order is regulated by O.S.H.A. standard 29 CFR 1910: 1200 (Hazard Communications Std.) you are required to supply a new or updated Material Safety Data Sheet (M.S.D.S.) under the following conditions:

- A This is your initial shipment of the product to T&B.
- B This product has changed since the last shipment.
- C M.S.D.S. on file at T&B is over a year old.

Product must be labeled as required by the above federal standard.

33. Seller shall at all times maintain the following types of insurance in the following minimum amounts:

- A. Worker's Compensation: Statutory Limits;
- B. Comprehensive General Liability, including coverage for Premises/Operations, Products/Completed Operations and Contractual Liability: \$2,000,000 per occurrence and in the aggregate, Bodily Injury and Property Damage combined; and
- C. Automobile Liability: Bodily Injury and Property Damage: \$1,000,000 per occurrence.

Purchaser may require that Seller, prior to commencement of deliveries or performance of services hereunder, deliver to Purchaser a Certificate of Insurance evidencing that the Seller has the above insurance in full force and effect, and naming Purchaser as additional insureds under the above Comprehensive General Liability and Automobile Liability Policies, and containing a clause which reads as follows: "The insurance provided by these policies will not be materially changed or cancelled without 30-day prior written notice being provided to Purchaser." Purchaser reserves the right to require Seller to obtain additional types of insurance coverage and/or higher coverage limits where Purchaser in its sole discretion, deems same to be appropriate.

34. Where applicable, prior to shipping or providing goods, materials or work pursuant to this Purchase Order, Seller shall provide to Purchaser a statement describing any "Hazardous Materials" contained within or intended to be used in conjunction with the providing of any of said goods, materials or work. "Hazardous Materials" means any item which is regulated under any federal or state law or regulation as a hazardous material or hazardous substance. The statement to be provided by Seller to Purchaser shall describe the Hazardous Material in sufficient detail to allow the Purchaser to properly and safely handle and dispose of said Hazardous Material in accordance with any applicable federal or state law or regulation.