

## TERMS AND CONDITIONS

**Transportation - Delivery.** All products and/or materials of Seller shall be suitably packed, loaded, stored, marked and shipped as required by common carriers and in such manner as to secure lowest transportation costs. Transportation costs, if prepaid, must be shown on Seller's invoice and a receipted expense bill attached thereto. Any expenses incurred by reason of Seller's failure to follow shipping instructions shall be charged to Seller. Time is of the essence, and Seller expressly agrees to notify Buyer if Seller is unable to meet Buyer's delivery requirements or schedules. In the event Seller fails to meet Buyer's delivery requirements or schedules for any reason, including without limitation, any reason beyond Seller's control, then Buyer may at its option, cancel this purchase order in whole or in part or may obtain elsewhere the products, materials or services covered by this purchase order and may then charge to Seller the costs of such substitution or cover in excess of what Buyer would have paid Seller had this purchase order not been cancelled. In the event that transportation terms are F.O.B. Seller's shipping point, Seller shall assist Buyer in filing freight claims, if any, relating to this purchase order.

**Inspection.** All products, materials and services (hereafter referred to interchangeably as **Goods**) shall be received at their destination subject to Buyer's final inspection and acceptance, but such inspection or acceptance shall not relieve Seller from any liability arising out of this purchase order. Buyer shall have no obligation to pay for Goods which are in excess of the quantities specified herein or in Buyer's delivery schedules. Because Goods may be placed in inventory or storage or used without examination and no inspection made until such Goods are to be utilized or resold, such inspection and implied acceptance by Buyer may take place at any reasonable time after physical receipt of such Goods by Buyer. No reasonable delay in return or rejection of Goods shall be considered as acceptance or waiver of Buyer's right to return, reject or retain them as provided herein or by law, whether or not the Goods are utilized within that period. Payment for Goods prior to final inspection shall not constitute acceptance thereof, and acceptance after inspection shall not waive any remedies available to Buyer arising out of or as a result of a breach of Seller's warranties. Any Goods not in conformity to Buyer's specifications or Seller's warranties may be rejected, returned or retained by Buyer at Seller's risk and expense, including, but not limited to, the cost of substitution or cover. If Buyer elects to retain the non-conforming Goods, then Seller shall pay Buyer for all necessary costs and expenses incurred in correcting such defective or unsuitable Goods. Buyer shall not be responsible for any Goods delivered to any of its facilities or employees without a purchase order.

**Force Majeure.** Buyer may delay delivery and/or acceptance occasioned by causes beyond its control. Seller shall hold such Goods at the direction of the Buyer and shall deliver them when the cause affecting the delay has been removed. Buyer shall be responsible only for Seller's direct additional costs in holding the Goods or delaying performance at Buyer's request. Causes beyond Buyer's control shall include, but not be limited to, governmental action, strikes or other labor disputes, fire, unusually severe weather, or other circumstances which make delivery and/or acceptance impossible or impractical.

**Prices.** Seller warrants that the price for the Goods sold to Buyer hereunder is not less favorable than those currently extended to any other comparable customer for the same or similar articles in similar quantities. Unless specified herein, Seller shall not fill this order at a price higher than that quoted by Seller without first advising and receiving the written consent of Buyer's authorized agent. Seller warrants that the price shown on this purchase order is complete and includes all applicable taxes unless otherwise indicated. No additional charges of any type (including, but not limited to, transportation, packaging, labeling, customs duties, storage, boxing, crating and insurance) shall be included without Buyer's express written consent.

**Warranties.** SELLER EXPRESSLY WARRANTS THAT ALL GOODS FURNISHED UNDER THIS PURCHASE ORDER SHALL: (1) conform to all specifications, drawings, samples or other descriptions of Buyer or agreed to in writing by Buyer's authorized agent; (2) be new and free from defects in material, design, and workmanship; (3) be adequately contained, packaged, marked and labeled; (4) conform to any representations made by Seller on the containers, labels or advertisements for the Goods; (5) be merchantable and fit for any purpose for which they are foreseeably to be used by Buyer; and (6) comply with applicable industry standards and with all applicable federal, state and local laws and the regulations, rules, standards or orders issued thereunder, pertaining to the safety of persons and property, including, without limitation, those adopted under the Occupational Safety and Health Act, the Hazardous Materials Transportation Act, the Transportation Safety Act, and the Consumer Product Safety Act. Seller's warranties shall run to Buyer, Buyer's customers, and the end-users of the Goods, and their respective successors and assigns. Seller shall promptly replace or correct defects in the Goods not conforming to the foregoing warranties, without expense to the Buyer, when notified of such nonconformity by Buyer. In the event of Seller's failure to promptly replace or correct defects in nonconforming Goods, Buyer, after reasonable notice to Seller, may make such replacements or corrections and charge Seller for expenses incurred by Buyer in doing so, in an amount not to exceed the purchase price of the nonconforming Goods. Seller further warrants that it is in compliance with all applicable federal, state and local laws, Executive Orders, and rules and regulations including, without limitation, those pertaining to labor and employment (including those addressing discrimination, equal opportunity, immigration, and occupational safety and health); import/export administration; intellectual property; and environmental protection. Seller further warrants that the normal use of the Goods by Buyer shall result in no violation of any such laws, regulations, standards, or orders.

**Changes.** Buyer shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery, and method of transportation. If any such changes cause an increase or decrease in the cost or the time required for performance, an equitable adjustment shall be made which shall be promptly confirmed by Buyer and Seller in writing. Seller agrees to accept any such changes subject to this paragraph.

**Termination for Convenience of Buyer.** Buyer reserves the right to terminate this order or any part thereof for its sole convenience. In the event of such termination, Seller shall immediately cease all work hereunder, and shall immediately cause its suppliers and subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work performed after receipt of notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

**Termination for Cause.** Buyer may terminate this order or any part thereof for cause in the event Seller defaults or fails to comply with any of the material terms and conditions of this order. Deliveries of Goods which are defective or which do not conform to this order, breach of Seller's warranties, and failure to provide Buyer, upon request, with reasonable assurances of future performance, shall each be deemed justification to terminate this order for cause. In the event of termination for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for the cost of substitution or cover and for any foreseeable damages sustained by Buyer by reason of the default or failure which gave rise to the termination.

**Proprietary Information - Confidentiality - Advertising.** All data, drawings, specifications and other technical information furnished by Buyer to Seller, directly or indirectly, in writing or otherwise, shall remain the property of Buyer, and Seller shall consider all such information to be confidential and shall not duplicate or disclose it to any third party, or use such information itself for any purpose other than performing this order, unless Seller obtains written permission from Buyer to do so. Seller shall not advertise or publish the fact that Buyer has contracted to purchase Goods from Seller. All confidential commercial, financial or technical information of the Seller, in writing or otherwise, shall be clearly marked **Confidential** or otherwise identified as such by the Seller at the time of disclosure, and Buyer shall not duplicate or disclose it to any third party unless Buyer obtains written permission from Seller to do so.

**Indemnification.** Seller shall defend, indemnify and hold harmless Buyer (including Buyer's affiliates), Buyer's customers, and end-users of the Goods, against all liabilities, claims, losses, damages (including consequential and incidental damages), and expenses (including attorneys' fees and court costs) of any kind incurred, relating to, or arising out of any of the following, to the extent proximately caused by Seller's willful misconduct, negligence, or other wrongdoing: (1) any actual or alleged personal injury (including death), damage to property, or other loss, resulting or claimed to have resulted in whole or in part from any actual or alleged defects in the design, manufacture, workmanship, or packaging of the Goods covered by this order; (2) any actual or alleged failure of the Goods to comply with specifications or with any express or implied warranties of Seller; (3) any actual or alleged violation by such products and/or materials, or their manufacture, possession, use or sale, of any governmental law or regulation or industry standard; and (4) any actual or alleged personal injury (including death), damage to property, or other loss, resulting or claimed to have resulted in whole or in part from Seller's fabrication, assembly, installation, maintenance or repair activities in connection with the Goods on Buyer's premises; (5) any actual or alleged patent, copyright, or trademark infringement or violation of other proprietary right, arising out of the sale or purchase of the Goods covered by this order. Buyer shall have the right to reasonably control the defense or settlement of any litigation brought against it which shall not affect Buyer's right to be indemnified by Seller hereunder. All claims for money due or to become due from Buyer under this order or other transaction with Seller shall be subject to deduction or setoff by the Buyer until all liabilities and claims giving rise to Seller's indemnity obligations are resolved to the reasonable satisfaction of Buyer. In connection with Seller's indemnity obligations, Seller shall maintain all necessary insurance coverages and limits and shall furnish evidence of such insurance as Buyer may reasonably request.

**Liens - Assignment - Subcontracting.** Seller shall deliver the products and materials and/or perform the services covered by this order free and clear of mechanics' liens, claims and other encumbrances, and shall execute or cause to be executed lien waivers, guarantees, and related forms necessary to fulfill such obligation. Seller shall not assign or subcontract, in whole or in part, its rights or obligations under this purchase order without the prior written approval of Buyer.

**Equal Employment Opportunity/Non-Segregated Facilities.** To the extent that this order is subject thereto, the "Equal Opportunity Clause" set forth in 41 CFR 60-1.4 and the "Affirmative Action Clauses" set forth in 41 CFR 60-250.4 and 41 CFR 60-741.4 are incorporated herein by reference.

**Entire Agreement - Waiver - Remedies - Choice of Law.** This purchase order constitutes the entire agreement of sale and purchase of the Goods between Seller and Buyer and is expressly limited to and made conditional upon acceptance of all the terms, conditions and specifications contained herein. Any additional terms, conditions or specifications, whether stated in Seller's quotation or contained in any form of acknowledgment of this order, are objected to and rejected and shall be deemed a material alteration thereof, and THIS ORDER SHALL BE DEEMED ACCEPTED BY SELLER WITHOUT SUCH ADDITIONAL TERMS, CONDITIONS OR SPECIFICATIONS UNLESS THEY ARE EXPRESSLY ASSENTED TO IN WRITING BY BUYER'S AUTHORIZED REPRESENTATIVE. Either party's failure to insist on performance of any terms or conditions herein or to exercise any right or privilege shall not thereafter be deemed a waiver of the same or of any other terms, conditions, rights or privileges. The individual remedies set forth in this purchase order shall be cumulative and in addition to any other remedies available at law or in equity. The foregoing terms and conditions shall be governed by and interpreted in accordance with the law of the State of Maryland. [Rev. 5/02]