

General Purchase Order Terms & Conditions

Seller agrees to provide to Buyer (hereinafter referred to as "Buyer") the goods ("Goods") and/or services ("Services"), described in any purchase order (hereinafter referred to as the "Order"), in accordance with these General Purchase Order Terms and Conditions ("Terms").

- 1. ACCEPTANCE; ENTIRE AGREEMENT.** Seller's written acceptance or commencement of any performance under this Order shall constitute Seller's acceptance of these Terms. Buyer objects to, and rejects all terms or conditions proposed by Seller in its quotation, acknowledgment, invoice, packaging or otherwise which conflict with or are in addition to any of the provisions hereof, and such terms shall not become a part of this Order. If this Order is deemed to be an acceptance of a prior offer by Seller, such acceptance is conditional on Seller's assent to all additional or different terms and conditions contained herein. The Order constitutes the entire agreement and understanding between Buyer and Seller and supersedes all prior agreements and understandings, whether written or oral, regarding the subject matter of the Order. No modification of the Order shall be binding upon Buyer unless made in writing and signed by Buyer's authorized representative.
- 2. GOVERNING LAW.** The Order shall be interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts. Any dispute arising under, or in connection with the Order will be decided in the state and federal courts located in Massachusetts with subject matter jurisdiction.
- 3. DELIVERY; PACKING; SHIPPING; RISK OF LOSS.** Time is of the essence. Delivery of Goods shall be made pursuant to the schedule, via the carrier, and to the place specified on the face of the Order. Unless otherwise expressly stated in the Order, the delivery point for all deliveries under the Order shall be F.O.B. Destination or Incoterms DAP (Delivered at Place), with the purchase price being inclusive of all international and domestic freight, duties, insurance, and other costs, fees, and expenses associated with delivering the ordered Goods from their point(s) of origin to the shipping destination. Seller assumes all risk of loss until receipt of the Goods by Buyer. Title to Goods shall pass to Buyer upon receipt by Buyer of the Goods at the designated destination.
- 4. PRICE.** The Goods shipped or Services performed against the Order shall not be invoiced at a higher price than shown in the Order without the express written consent of Buyer. No charges will be allowed for packing, crating, freight, freight surcharges, shipping, shipping insurance, taxes, expedited delivery, or cartage, except as expressly provided in the Order.
- 5. TAXES.** Except as otherwise expressly provided in the Order, Seller shall be solely responsible for the timely payment of all local, state, and federal taxes and assessments applicable to the Order or any amounts paid by Buyer to Seller pursuant to the Order. Any taxes paid or reimbursed by Buyer to Seller under the Order shall be timely paid by Seller to the applicable taxing authorities.
- 6. PAYMENT.** Unless different payment terms appear in the Order, Buyer shall pay all verified invoices within thirty (30) calendar days of Buyer's receipt of the invoice, proper in form and substance.
- 7. WARRANTIES.** Seller warrants that the Goods furnished will be free from defects in materials and workmanship and safe to use, consume or dispose of, be merchantable and in full conformity with Buyer's specifications, drawings, and data, and Seller's descriptions, promises, or samples; will be fit for the ordinary purposes for which such Goods are used; will be fit for the Buyer's intended use; and that Seller will convey good title to the Goods, free and clear of all liens, claims, and encumbrances. These warranties shall survive acceptance of the Goods and are in addition to any other warranties given to Buyer by Seller. No implied warranties by Seller are excluded or disclaimed.
- 8. INSPECTION.** All Goods furnished under the Order will be subject to Buyer's final inspection and acceptance at Buyer's premises within a reasonable time (of not less than 30 calendar days) after delivery, irrespective of payment date. Buyer may reject Goods not in accordance with the Order, including without limitation, Seller's warranties (express or implied). Seller shall provide Buyer's representative(s) access to Seller's facilities to inspect any material covered by the Order at any reasonable time from the start of manufacturing until final shipment of conforming Goods.
- 9. INSURANCE.** Seller shall provide and maintain policies of insurance in forms and amounts set forth in the Order as will protect Indemnified Parties (as defined in the Order) from any Loss which may result, in any way, from any act or omission of Seller, its agents, employees, or subcontractors, and from any claims under applicable worker's compensation laws or regulations and as otherwise satisfactory to Buyer. Buyer shall be named as an additional insured on Seller's commercial general liability, excess liability, and commercial automobile policies. Seller shall provide certificates of insurance evidencing that all insurance coverage required by the Order is in full force and effect.
- 10. INDEMNITY.** Seller shall to the fullest extent permitted by law indemnify, defend, save, and hold harmless the Indemnified Parties from and against any and all losses caused by or resulting from (a) the intentional, reckless, or negligent action of Seller (or its affiliates, employees, agents, subcontractors, or representatives), (b) the noncompliance by Seller (or its affiliates, employees, agents subcontractors, or representatives) with any applicable federal, state, or local law, regulation, ordinance, or rule, (c) any defect, whether latent or patent, in the Goods or Services furnished under the Order, (d) any claim for failure to warn of a dangerous condition associated with the Goods or Services furnished under the Order,

(e) Seller's breach of its obligations under the terms of the Order, or (f) any act or omission of Seller (or its affiliates, employees, agents, subcontractors, or representatives) in performing the Order. Insurance recoveries or policies, warranties, or other obligations of Seller under the Order shall not in any way limit this indemnity. Seller's indemnity obligation under this Section 10 shall not be limited by applicable Workers' Compensation laws, and, as respects this indemnity, Seller hereby expressly waives all immunities and defenses that it may have under such laws.

11. **RIGHT TO SETOFF.** All claims for monies due or to become due from Buyer shall be subject to deduction by Buyer for any setoff or counterclaim arising out of this Order or any other transaction between Buyer and Seller or Seller's affiliates, regardless whether such setoff or counterclaim arose before or after any permitted assignment by Seller or Seller's affiliates.

12. **LIMITED LIABILITY.** Buyer shall not be liable to Seller for any special, incidental, punitive, exemplary, consequential damages, or lost profits arising out of or related, in whole or in part, to the Goods and Services furnished under the Order. This exclusion shall apply regardless of whether the liability arises in tort or contract, at law or equity.

13. **REMEDIES.** Buyer's exercise of or failure to insist upon or exercise any right or remedy herein provided shall be without prejudice to the right to exercise or insist upon any other right or remedy provided herein or by law, on the same or any subsequent shipment. All rights and remedies of Buyer shall be nonexclusive and cumulative and may be exercised singly or concurrently by Buyer in its sole discretion.

14. **CONFIDENTIALITY AND NON-DISCLOSURE.** Seller acknowledges and agrees that in the course of performing work described in the Order, Seller may become exposed to proprietary, confidential, sensitive, non-public, or trade secret information concerning the business and operations of Buyer (Confidential Information). Seller shall hold Confidential Information in strict confidence and shall not directly or indirectly disclose Confidential Information during the term of the Order or thereafter to any third party or make use of Confidential Information except as required in performance of the work described in the Order or as required by order of any court or body or agency of competent jurisdiction, provided however, that Seller shall give Buyer prior written notice of any such disclosure and shall cooperate with Buyer if Buyer seeks a protective order or similar protection as Buyer may deem appropriate to preserve the confidential nature of such information.

15. **INTELLECTUAL PROPERTY RIGHTS.** Seller grants Buyer and its successors and assigns a nonexclusive, royalty free, fully paid irrevocable, perpetual, and transferable license under patents, copyrights, trademarks, and other intellectual property rights now or hereafter owned by or licensed to Seller to use, modify, alter, enhance, change supplement, repair, replace, upgrade, transfer, sell, or otherwise enjoy the specific Goods purchased herein, including without limitation, all related parts, components, equipment, materials, software, hardware and systems. In so doing, Seller represents and warrants that it is lawfully authorized to license or sublicense such rights to Buyer. Seller shall to the fullest extent permitted by law indemnify, defend, save, and hold harmless the Indemnified Parties from and against any and all losses for alleged infringement of any patent, copyright, trademark, or other proprietary data or intellectual property rights relating to the goods furnished under the Order.

16. **INFORMATION AND PROPERTY FURNISHED TO SELLER.** All special dies, molds, patterns, jigs, fixtures, documents, plans, drawings, specifications, computer programs, records, files, Confidential Information, and any other property which Buyer furnishes to Seller or specifically pays for, for use in the performance of the Order, shall be and remain the sole and exclusive property of Buyer, shall be subject to immediate removal, destruction, or return to Buyer upon Buyer's written request, shall be for Buyer's exclusive use, shall be held at Seller's risk, and shall be kept insured at Seller's expense while in custody or control in an amount equal to replacement cost, with Buyer named as an additional insured and as loss payee under insurance policies written by insurance companies acceptable to Buyer.

17. **ENVIRONMENTAL COMPLIANCE.** Seller warrants that the Goods sold or furnished under the Order have been and will be produced and furnished in full and complete compliance with all applicable environmental laws and regulations. Prior to the use or delivery of any chemical or hazardous product on Buyer's property, Seller shall submit a current Material Safety Data Sheet (MSDS) for each product.

18. **CHANGES.** Buyer reserves the right to change quantities, specifications, and delivery dates. Price differences resulting from such changes shall be equitably adjusted in writing after Buyer's receipt of documentation in such form and detail as Buyer may direct. Nothing herein shall relieve Seller from proceeding without delay in the performance of this Order as changed. If any change by Buyer causes an increase or decrease in the cost of, or the delivery schedule for, the Order, the Seller shall make an equitable adjustment in the contract price or delivery schedule, or both. Any claims by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from Seller's receipt of Buyer's request for the change. No additions to or modifications of price, delivery method or schedule, quantity, quality, specification, or any other term of the Order will be effective unless agreed to in writing by Buyer.

19. **TERMINATION.** Buyer may terminate all or any part of this Order for default if Seller (a) fails to timely deliver Goods or perform Services as required in this Order, (b) repudiates or breaches any term or condition of this Order, including Seller's warranties, and fails to cure such breach within ten (10) days (or such shorter period as commercially reasonable under the circumstances) after receipt of written notice from Buyer specifying such breach. If Buyer terminates the Order for default, Seller shall be liable to Buyer for additional costs, if any, incurred by Buyer for the purchase of such similar Goods and Services to cover such default. Buyer reserves the right to terminate this Order or any part thereof for the sole convenience of Buyer at any time prior to shipment upon written notice to Seller in which event Seller shall be entitled to reimbursement of Seller's reasonable actual incurred costs to the date of termination.

20. **EXCUSABLE DELAY.** Fires, floods, strikes, lockouts, epidemics, accidents, or other causes beyond the reasonable control of Seller which prevents Seller from delivering or Buyer from receiving any of the Goods and Services covered by the Order, shall suspend deliveries until the cause is removed, provided Seller promptly informs Buyer of the cause of the excusable delay and the estimated time of the delay, in writing, and subject to Buyer's right of termination under the Order. If Buyer does not elect to terminate, the Goods or Services will be promptly delivered when the cause is removed. If the cause for delay is a failure of a part of Seller's production facilities or a source of supply for Seller, Seller must apportion available production or supplies to provide goods and services required hereunder to Buyer on an equitable basis, and Seller must use good faith efforts to obtain an alternative source of supply.

21. **ASSIGNMENT.** Buyer may assign, transfer, or subcontract the Order or any right or obligation set forth in the Order without the consent of Seller. Seller shall not assign, transfer, or subcontract the Order or any right or obligation set forth in the Order without the prior written consent of Buyer, which may be withheld for any reason. Any unauthorized assignment, transfer, or subcontract shall be void and ineffective.

22. **COMPLIANCE WITH LAWS.** Seller shall comply fully with all applicable federal, state, and local laws in the performance of this Order including, but not limited to, all applicable employment, tax, export control, and environmental laws, and any law, rule or regulation pertaining to equal employment opportunity, wage payment, employer discrimination, pension benefits, health benefits, disability benefits, retirement benefits, unemployment compensation, workers compensation, health and safety, the environment, labor relations, and the use possession, sale and distribution of alcohol and drugs.