

TERMS AND CONDITIONS

1. ACCEPTANCE AND MODIFICATION OF AGREEMENT

THIS PURCHASE ORDER (P.O.) BECOMES A BINDING CONTRACT, SUBJECT TO THE TERMS AND CONDITIONS HEREOF, WHEN ACCEPTED BY DELIVERY OF ACKNOWLEDGEMENT TO PURCHASER OR BY DELIVERY OF MATERIALS IN WHOLE OR IN PART. ANY ACKNOWLEDGEMENT FORM OR OTHER FORM OF SELLER CONTAINING TERMS AND CONDITIONS OF SALES SHALL NOT HAVE THE EFFECT OF ADDING TO, MODIFYING OR DELETING THE TERMS AND CONDITIONS HEREOF, ANY ADDITION TO MODIFICATION OF OR DELETION FROM THIS P.O., TO BE VALID, MUST BE IN WRITING AND SIGNED BY PURCHASER'S AUTHORIZED REPRESENTATIVE. "IT IS THE SPECIFIC INTENT OF THE BUYER THAT THE ONLY CONTRACT WITH THE SUPPLIER IS THAT FOUND IN THE TERMS OF THIS PURCHASE ORDER, UNLESS SO MODIFIED."

2. DELIVERY

Time of delivery is and shall remain the essence of this P.O. Default in delivery caused by acts of God and other causes beyond Seller's control and without its fault and negligence shall not make Seller liable therefor, provided Seller immediately notifies Purchaser of said event and the estimated delay in delivery. Purchaser shall have the right to cancel all or any portion of this P.O. which has not been delivered on time. Acceptance by Purchaser of a late delivery of either a whole or a part of P.O. shall not constitute a waiver of its claim for damage caused it by the late delivery nor its rights to cancel the remaining portion of the P.O. if deliveries are behind the schedule, Purchaser may request Seller to ship by express. In such event, such deliveries shall be made by express and Seller shall pay the difference between the freight and express rate.

3. SHIPPING AND PACKING

All terms ordered shall be suitably packed and marked for shipping. Purchaser shall not be charged for any packing, marking or boxing not separately itemized hereon. Seller shall be liable to Purchaser for any loss or damage resulting from Seller's failure to provide adequate protection during shipment. Purchaser and Seller shall assist each other, including the procuring of any documents of information, in filing and/or prosecuting any claims against carriers or others arising out of any such shipment.

4. INVOICES

Invoices (except dating) are paid less cash discount on the face hereof. Taxes, if any, must be separately itemized. Date for calculation of cash discount shall be (i) date material is received; (ii) date P.O. scheduled delivery; or (iii) date a proper invoice is received, whichever is later.

5. OVERSHIPMENTS

Materials shipped on this P.O. must not be in excess of quantity ordered unless authorized by Purchaser in writing. Overshipments may be returned at Seller's expense.

6. WARRANTIES

In addition to its standard warranty and/or service guaranty, if any, Seller also warrants that all goods supplied hereunder shall:

- a) **Be free and clear of all liens and encumbrances, good and merchantable title thereto being in the Seller;**
- b) **Be free from any defects in design, material or workmanship and of good and merchantable quality;**
- c) **Conform to Purchaser's drawings and specification, if any, whether set forth herein or in any documents attached to or referred to herein, and to any sample approved by Purchaser;**
- d) **Be fit and safe for all purposes for which the same are purchased hereunder, and of which Seller shall have been informed by Purchaser or shall be otherwise aware; and**
- e) **Comply and have been produced, processed and delivered in conformity with all applicable Federal, State, or other laws, administrative regulations and orders.**

The foregoing warranties shall survive inspection, delivery and payment, Purchaser shall have the right to return all defective items to Seller at Seller's expense for repair, replacement or refund at Purchaser's option as well as other remedies permitted by law.

7. PROPRIETARY INFORMATION

All specifications, drawings, designs, know-how, trade secrets, customer lists, sales information, technical data, inventions, or other proprietary information which are disclosed by Purchaser to Seller, or which are developed by Purchaser or Seller in connection with the subject matter of this contract, shall be the sole and exclusive property of Purchaser, and Seller agrees to retain all such proprietary information in confidence and not to disclose it to other parties. Seller agrees to disclose promptly to Purchaser any proprietary information developed in connection with the subject matter of this contract and to transfer all right, title and interest in and to such proprietary information to Purchaser, including any applications for Letter Patents or other registrations thereon prepared at Purchaser's expense.

8. MATERIAL FURNISHED BY PURCHASER

Any material, tools and equipment furnished by Purchaser on other than a charge basis in connection with this P.O. shall be deemed to be bailed to Seller for mutual benefit and title thereto shall remain in Purchaser. Seller shall be responsible for any loss or damage thereto and shall keep all materials, tools and equipment in which Purchaser has an interest insured against risk of loss or damage, for their value at Seller's expense while they are in Seller's possession. Any remaining material, tools and equipment shall be immediately returned to Purchaser F.O.B. Seller's facility, properly packed upon receipt of Purchaser's written directions.

9. PRICE

If price is omitted it is agreed that Seller's price will be Seller's lowest prevailing price provided such price is not higher than previously quoted to or charged Purchaser. If the price is to be higher, Seller must first obtain Purchaser's written agreement to the higher price.

10. INDEMNITY, INSURANCE

Seller, its heirs, successors, assigns and legal representatives, shall forever protect, indemnify and save harmless Purchaser, its subsidiaries and affiliated companies, their successors, assigns, customers and users of their products, against all damages, claims, suits at law or in equity, demands or losses of any kind arising out of, or alleged to have arisen out of, or in connection with Seller's performance or lack of performance of this contract. This obligation shall include the costs arising out of or in connection with Purchaser's voluntary or involuntary recall, recovery or withdrawal of products in compliance with any Federal, State or local laws, orders or regulations.

Seller agrees to comply with Purchaser's insurance conditions as revised from time to time and submit evidence of such insurance. This insurance, at the present time, shall include but not be limited to: Comprehensive General Liability including contractual and products liability. The certificates must specifically mention that contractual and products liability is provided and must contain a clause covering Seller's assumption of liability. Seller agrees to supply (if needed) automobile liability insurance including owned, non-owned and hired vehicles.

11. PATENTS, TRADEMARKS AND TRADENAMES

Seller agrees to indemnify and save harmless the Purchaser, its officers, agents, successors, assigns and customer against all damages, claims, demands, attorney's fees and costs of any kind for actual or alleged infringement of any tradenames, trademark, copyright and patent or patents (unless the goods ordered are of Purchaser's design) because of the manufacture, possession, sale or use of any material specified herein.

12. TERMINATION

Purchaser may terminate this P.O. in whole or in part, by written notice of termination, whereupon Seller will terminate pursuant to the notice all work started under the P.O. Seller will promptly advise Purchaser of the quantities of applicable work and material on hand or purchased prior to termination and the most favorable disposition that Seller can make thereof.

Payment made under this clause will constitute Purchaser's only liability in the event this P.O. is terminated as provided herein. Seller's acceptance of such payment will constitute an acknowledgement that Purchaser has fully discharged such liability. In addition to all rights and remedies conferred on the Purchaser hereunder, that Purchaser shall have all of the rights and remedies provided by the Uniform Commercial Code. The provisions of this clause will not apply to any termination by Purchaser for default by Seller or for any other cause allowed by law or under this P.O.

13. TERMINATION FOR DEFAULT

Purchaser shall have the unrestricted right to terminate this P.O. upon the happening of any one or more of the following events: (1) Seller's insolvency or commission of an act of bankruptcy; (2) filing a voluntary or involuntary petition of bankruptcy by or against Seller; (3) appointment of a receiver for Seller by any court of competent jurisdiction; (4) Seller's failure to make deliveries within the time specified by this P.O.; or (5) Seller's failure to perform any other provision of this P.O. The acceptance of goods or performance after the occurrence of any of the above enumerated events shall not affect the right of Purchaser to terminate under this paragraph.

14. COMPLIANCE WITH LAW

Seller agrees that the goods and/or services produced and/or rendered pursuant to this P.O. will be produced and/or rendered in accordance with all applicable Federal, State, and local laws, orders and regulations as they may be issued and/or amended from time to time

15. CHANGES

Purchaser may at any time make changes in the drawings, specifications, samples, quantities, delivery schedules, shipments or other description as to any article, material and work covered by this P.O., then an equitable adjustment shall be made by mutual agreement, reduced to writing and executed by authorized representatives of both parties. Any claim by Seller for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Seller of the notification of change.

16. WAIVERS

Any waiver of strict compliance with the terms of this P.O. shall not be a waiver of Purchaser's right to insist upon strict compliance with the terms of the P.O. thereafter, or any future purchase orders.

17. PERFORMANCE BY SELLER

This P.O. is issued to Seller in reliance upon Seller's personal performance of the duties imposed and by accepting same Seller agrees not to assign this order or delegate the performance of its duties without consent in writing of Purchaser. Any such assignment or delegation attempted without the previous written consent of Purchaser shall effect, at the option of Purchaser, a cancellation of all Purchaser's obligations hereunder.

18. WORK ON PURCHASER'S PREMISES

If any work under this P.O. is to be performed on Purchaser's premises Seller agrees to defend, indemnify and hold harmless purchaser from and against all claims, losses or damages due to injury or death to any persons, including Seller's agents, servants or employees, and damages to or the destruction of any property resulting from Seller's negligent acts or omissions incident to or arising out of such work. Seller shall maintain such Public Liability, Property Damage or Worker's Compensation insurance as will protect Purchaser from said risks.

19. USE OF NAME, TRADENAME AND TRADEMARKS

(a) Unless authorized by Purchaser in writing, the name of Purchaser, its parent, subsidiaries and/or any affiliated corporations or any of their trademarks shall not be used by Seller, (b) If the material specified within this P.O. is peculiar to Purchaser's design, either as an assembly or component part of any assembly, or if the material bears Purchaser's Trademark and/or identifying mar, it shall not bear the trademark or other designation of the Maker or Seller and similar material peculiar to the Purchaser's design or bearing its trademark or identifying mark shall not be sold or otherwise disposed of to anyone other than Purchaser.

20. SET-OFF

Purchaser shall be entitled at all times to set off any amount owing at any time from Seller to Purchaser or any of its affiliated companies against any amount payable at any time by Purchaser in connection with this order.

Supplier Name _____

Supplier sign off _____ Date _____