



PURCHASE ORDER GENERAL TERMS AND CONDITIONS

Effective Date: July 5, 2016

1. **OFFER AND ACCEPTANCE.** This Purchase Order ("Order") is an offer to Seller by Buyer to enter into a purchase/supply agreement, and this, together with any documents, specifically referenced herein, represents the entire agreement between the parties. The terms and conditions set forth herein and on the face side of the Order constitute the parties' contractual agreement and supercede any previous oral or written representations, including but not limited to provisions in Seller's quotations, proposals, acknowledgments or other documents. No course of dealing or usage of trade shall be applicable unless expressly incorporated by this Order. The terms of this Order may not be varied or modified in any manner, unless in a subsequent writing signed by an authorized representative of Buyer. Any clerical errors contained on the face side are subject to correction by Buyer. Seller's written acknowledgment within 10 days of the date of this Order, commencement of work on the goods or performance of the services subject to this Order, or shipment of such goods, whichever occurs first, shall be deemed an effective mode of acceptance of this Order. Any acceptance of this Order is limited to acceptance of the express terms set forth herein. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance or other documents are deemed material and are hereby objected to and rejected, but such proposals shall not operate as a rejection of this offer, unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods or services, and this offer shall be deemed accepted by Seller without said additional or different terms. If this Order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms set forth herein.

Buyer objects to any additional or contrary terms in Seller's quotation, acknowledgement, or invoice, and the terms herein shall be binding upon the parties. **AN ATTEMPTED ACKNOWLEDGEMENT OF THE ORDER CONTAINING TERMS INCONSISTENT WITH OR IN ADDITION TO THOSE STATED HEREIN IS NOT BINDING UPON BUYER UNLESS SPECIFICALLY ACCEPTED BY BUYER IN WRITING.**

2. **LOSS AND TITLE.** All shipments are at the risk of Seller regardless of the F.O.B. point, unless otherwise agreed to in writing signed by an authorized representative of Buyer. If risk of loss is assumed by Buyer in writing, all risk casualty insurance must be provided by Seller for the benefit of Buyer. Title shall remain with Seller until the earliest of payment for or receipt of the goods or products by Buyer at its plant. Risk of loss shall not be governed by transfer of title.

3. **WARRANTY.** Seller warrants that the material or articles covered by this order, together with all related packaging and labeling and other material furnished by Seller, (a) will conform to all of the specifications or samples furnished by Buyer and will be fit and sufficient for their intended purpose, (b) will function properly and be free of any defects in design, material and workmanship, (c) will conform in all respects with all applicable federal, state and local laws, orders and regulation, including, without limitation, those regarding occupational health, and (d) will not infringe or encroach upon Buyer's or any third party's personal, contractual or proprietary rights, including, without limitation, patents, trademarks, copyrights,

rights of privacy, or trade secrets. Such warranty shall be in addition to those available at law and shall survive any acceptance by Buyer of all or a part of the material or articles covered by this order.

This warranty shall run to Buyer, its dealers, customers and users of its products. Seller agrees to promptly replace or correct defects of any goods or services not conforming to the foregoing warranty, without expense to Buyer, when notified of such nonconformity by Buyer. In the event Seller fails to promptly correct defects in or replace nonconforming goods, Buyer may make such corrections or replace such goods and services and charge Seller for costs of materials, labor, transportation or other costs incurred by Buyer. In addition to any other remedies it may have, Buyer may reject nonconforming goods and return them to Seller at Seller's expense; nonconforming goods may not be replaced without Buyer's written authorization.

ANY ATTEMPT BY SELLER TO LIMIT, DISCLAIM OR RESTRICT ANY OF THE WARRANTIES HEREIN, BY ACKNOWLEDGEMENT OR OTHERWISE, IN ACCEPTING OR PERFORMING THE ORDER SHALL BE NULL AND VOID WITHOUT THE PRIOR WRITTEN CONSENT OF BUYER'S VICE PRESIDENT OF PURCHASING.

4. **TOOLING.** Unless otherwise agreed in writing, all tooling, dies, special dies, patterns, patents, jigs, gages, fixtures, drawings, designs, samples, tooling aids, molds and/or any other property that is paid for by Buyer and/or furnished to Seller by Buyer and/or made available to Seller by Buyer for use by Seller in producing any goods or parts covered by any Order (the "tooling") is the property of Buyer or its customer and shall (i) be used exclusively for the benefit of Buyer; (ii) be used only in filling Orders; (iii) remain and be conspicuously identified as Buyer's property; (iv) be segregated from the property of Seller and others; (v) be removed only upon Buyer's instructions; (vi) be held at Seller's risk and insured at its expense in a replacement cost amount with loss payable to Buyer (evidence of insurance to be furnished upon request); (vii) be subject to inspection and removal by Buyer at any time and for any reason whatsoever; and (viii) be maintained in good condition, at Seller's expense, and not be modified without Buyer's prior written consent. Seller shall bear the risk of loss of, and damage to, the tooling, normal wear and tear excepted. Seller grants to Buyer a purchase money security interest in the tooling, any portion thereof, work in progress, raw materials, drawings and other items dedicated to constructing the tooling and agrees to perform any act and execute any document reasonably necessary to perfect the Buyer's security interest in the tooling. Seller agrees to immediately return the Tooling to Buyer as Buyer may direct and acknowledge it has no title in the Tooling and will not encumber it in any manner whatsoever, and hereby waives any lien claims it may have in the Tooling. The Tooling shall be delivered to Buyer promptly and in accordance with Buyer's instructions, free and clear of any liens and without payment of any amount by Buyer. Seller acknowledges that its failure to return the Tooling on demand will cause Buyer to sustain irreparable harm warranting immediate and injunctive relief, and further agrees that in the event of such failure, Seller will pay liquidated damages to Buyer in the amount of Five Hundred Thousand Dollars (\$500,000.00) per day, plus all legal fees and costs associated with Buyer's enforcement of this section and the recovery of the Tooling.

5. **PRICE TERMS.** The goods and services will be furnished at the price set forth on the face side of the Order in U.S. dollars. Seller warrants that the price for the goods and services is no less favorable than those currently extended to any other customer for the same or similar goods in similar quantities. Seller agrees to participate in and to provide goods and services in compliance with the requirements of any cost reduction program in which Buyer is obligated by its customer(s) to participate. Buyer shall also receive

the full benefit of all discounts, premiums, and other favorable terms of payment customarily offered by Seller to its customers. In the event Seller reduces its price for the goods and services during the term of this Order, Seller agrees to reduce the prices to Buyer correspondingly. Seller warrants that the prices in this Order shall be complete, and no additional charges of any type shall be added without Buyer's express written consent.

6. INSPECTION. All goods shall be received subject to Buyer's right of inspection and rejection. Buyer shall have a reasonable time, but not less than 14 business days after delivery, to inspect delivered goods or products prior to inspecting the same. Defective goods or products not in conformity with Buyer's specifications or the Order will be returned to Seller at Seller's expense. Payment for the goods prior to inspection shall not constitute an acceptance thereof. Acceptance shall not release Seller's responsibility for latent defects or non-conformities nor for warranty claims.

7. PERFORMANCE DELAYS. (a) Seller agrees not to give any other customer of Seller any priority over Buyer, in the allocation of Seller's production. (b) Timely delivery is essential; however, neither party shall be liable to the other for any delay or failure to perform where such delay or failure is caused by events beyond the control of the affected party. The foregoing shall be subject to the affected party giving reasonable notice to the other party. In the event of delay or failure to perform by Seller, Buyer may, without waiving its right to seek damages caused by the delay, either terminate this Order or reject any partial or future performance, without further liability of Buyer, upon written notice to Seller.

Whenever Seller has knowledge of any actual or potential cause or event which delays or threatens to delay the timely performance of any Order, Seller shall immediately give Buyer written notice thereof, including all relevant information. Seller shall notify Buyer in writing of any actual or potential labor dispute delaying or threatening to delay timely performance of this Order. Seller shall notify Buyer in writing 6 months in advance of the expiration of any current labor contracts. Seller shall deliver a supply of finished goods at least 30 days prior to the expiration of any such labor contract, in quantities and for storage at sites designated by Buyer.

8. CONFIDENTIALITY. Seller agrees not to disclose to third parties any information regarding Buyer or its business or its customers, including the existence and terms of any Order, or use such information itself for any purpose other than performing this order, without Buyer's written prior approval. This paragraph shall apply to drawings, specifications and any other documents prepared by Seller for Buyer in connection with any Order.

9. TRANSPORTATION & PAYMENT. Time is of the essence. Delivery must be affected within the time specified in Buyer's Order. If delivery is not made within the time specified in Buyer's Order, Buyer may direct Seller to expedite delivery at Seller's expense.

Shipments shall be routed in accordance with Buyer's instructions, and Seller agrees to reimburse Buyer for all expense incurred by Buyer as a result of improper packing, marking, or routing. Buyer's Order number, part number, and Seller's shipment identification (SID) number will appear on each package and bill of lading. Goods for two or more of Buyer's locations will be shipped in separate packages for the different locations. Shipments in excess of those authorized may be returned to Seller, and Seller shall pay the transportation charges both ways for such shipments. Buyer may from time to time change shipping schedules previously furnished Seller, or direct temporary suspension of scheduled shipments. Buyer's

count will be accepted as final on all shipments. Unless otherwise expressly agreed to in writing by Buyer, no charge shall be made by Seller for containers, crating, boxing, bundling, dunnage, drayage, or storage.

10. CHANGES. Buyer may at any time and from time to time, make changes in the drawings, designs, or specifications, method of shipping or packing, and the place of delivery of any goods and/or work covered hereby. Buyer may make changes in quantities, drawings, specifications, delivery schedules, method of shipment and packaging, and may terminate work on this order for its own convenience, in whole written or telegraphic notice at any time. In order to assure the timely delivery of materials purchased hereunder, Seller will upon request by Buyer manufacture materials in excess of Buyer's current orders to serve as a reserve for shipment, at such inventory reserve level as may be set by Buyer from time to time, to meet Buyer's requirements and to meet any unforeseen delays due to any reason whatsoever. Until such item is purchased by Buyer from Seller, the same shall remain the property of Seller, and shall be held by Seller at its sole risk and expense. The quantity shipped pursuant to this order or any release issued hereunder shall not exceed the specified quantity without the prior written consent of Buyer.

11. DOCUMENTATION. Packing slips (which shall accompany the goods), shipping documents and memos, ASN documents, and bills of lading shall show the Order number, vendor, and item reference numbers. Shipping documents shall be mailed on shipment date and must include the SID, Bill of Lading or Packing Slip numbers relating to each shipment. Value of the goods shall be declared on shipments F.O.B. point of origin. For each international shipment, Seller shall include customs valuation invoice with a master packing slip and shall furnish all other required export documents. Export and trade credits shall belong to Buyer. Seller shall furnish (i) all documents required to obtain export credits and customs drawbacks; (ii) certificates of origin of the material goods supplied and the value added in each country; (iii) all NAFTA, AALA and other related documents; (iv) all required export licenses or authorizations; and (v) any other documents requested by Buyer of any of its customers. Seller warrants that the contents of such documents shall be true and accurate. Seller shall indemnify Buyer for any damages, including but not limited to duties, interest, and penalties, arising from a false or inaccurate statement.

12. INDEMNITY. Seller warrants that the goods sold hereunder will not infringe any U.S. or foreign patent and/or any third party intellectual property right.

Seller agrees to reimburse, indemnify, hold harmless, and defend at its expense (or to pay attorneys' fees incurred by Buyer) Buyer and its affiliates from and against any and all loss, discharge or expense or claim which Buyer may suffer or sustain or be in any way subjected to on account of (a) any claim of infringement of patents, copyrights, trademarks or unfair competition by reason of the loss of goods by Buyer, or its sub Buyers, provided the material or articles are used for their intended purpose and are not made to Buyer's own specifications, and (b) injury to, or death of, any persons or any loss of property arising out of any use, possession or sale of the material or articles or performance of this Contract by Seller, its servants, employees, agents or representatives. Should any of the goods furnished to Buyer hereunder become the subject of an alleged infringement of a U.S. and/or foreign patent and/or any other third party intellectual property right, Seller shall, at its expense, either procure for Buyer the right to continue using the goods; replace or modify the same so that they become non-infringing; or refund to Buyer the full purchase price of the alleged infringing goods.

13. TERMINATION AND CHANGES.

A. Buyer may terminate this Order, or any term or condition under the Order for cause in the event of any breach by the Seller of this Order. The following constitute “for cause” terminations of this Order: (i) late deliveries; (ii) deliveries of goods and services that are defective or that do not conform to this Order; (iii) breach by Seller of the terms and conditions of this Order; (iv) failure upon request to provide Buyer with reasonable assurances of future performance; (v) insolvency of Seller; (vi) the filing of an involuntary petition of bankruptcy against Seller or a voluntary petition by Seller; (vii) the execution by Seller of an assignment for the benefit of creditors; (viii) the commencement of any receivership or like proceedings relating to Seller's assets; or (ix) if the Seller is a party to a merger, consolidation or other extraordinary corporate transaction in which it is not the surviving entity. In the event of termination of this Order by Buyer for cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for all damages, direct or indirect, consequential and incidental, sustained by reason of the default which gave rise to the termination, including, but not limited to, excess costs incurred by Buyer as a result of obtaining the goods and services from another source.

B. Buyer reserves the right to terminate this Order or any term or condition under this Order, in whole or in part, at any time or from time to time, for its sole convenience. In the event of such termination, Seller shall immediately stop all work and cause all of its suppliers and subcontractors to cease work on the portion of this Order so terminated. Upon approval by Buyer, as Seller's sole compensation for the Buyer's termination of this Order or portions thereof, Seller shall be paid a reasonable termination charge consisting solely of an amount equal to the purchase price of the finished goods and services accepted by Buyer, as set forth in this Order, and documented costs to Seller of work in process and raw material allocable to the work to be performed pursuant to this Order, previously authorized by Seller, but in no event shall the amount payable hereunder exceed the purchase price of the finished goods and services which would have resulted from the completion of such work in process and raw materials. Seller will have no obligation to Buyer upon such termination to pay for goods, work in process or raw materials which are in Seller's standard stock or inventory or which are readily marketable. Within 30 days after receipt of a termination notice, Seller shall submit its claim. Buyer reserves the right to verify the claim by auditing all relevant records. Seller shall not be paid for any work performed after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors. In no event shall Buyer be liable for loss of profits, overhead, general and administrative charges, product development and engineering costs, interest, finance or hedging costs, unamortized depreciation costs, or any other direct or indirect cancellation charges. Seller shall transfer title and deliver to Buyer, if so requested by Buyer, all undelivered goods, work in process or raw materials paid for by Buyer as provided above.

C. Buyer shall have the right to make any changes, additions or alterations in the items, quantities, destinations, specifications, drawings, designs or delivery schedules. The parties will undertake to negotiate an appropriate adjustment in price and terms where the Seller's direct costs are materially affected by such changes. Any request by Seller for an adjustment in price or terms must be made within 30 days of any such change. All changes and adjustments, if any, must be in writing and signed by a duly authorized representative of Buyer.

14. **INSURANCE.** Seller shall maintain insurance in amounts acceptable to Buyer, naming Buyer as an additional insured, and covering general liability, public liability, product liability, product recall, completed operations, contractor's liability, automobile liability insurance, Worker's Compensation, and employer's liability insurance as will adequately protect Buyer against such damages, liabilities, claims, losses and expenses (including attorney's fees). Seller agrees to submit certificates of insurance, evidencing its insurance coverage when requested by Buyer.

15. **RIGHTS, REMEDIES AND CONSTRUCTION.** Buyer's rights and remedies shall be cumulative and in addition to any other rights or remedies provided by law or equity. A waiver by Buyer of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clauses. Any attempt on the part of Seller to limit Buyer's remedies or the amount and types of damages it may seek shall be null and void. The failure of the Buyer to insist upon the performance of any term or condition of this Buyer Order, or to exercise any right hereunder shall not be construed as a waiver of the future performance of any such term or condition or the exercise in the future of any such right. If any term of this Order is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this Order shall remain in full force and effect.

16. **TAXES.** Unless prohibited by law, the Seller shall pay all federal, state or local tax, transportation or other tax, including but not limited to customs duties and tariffs, which is required to be imposed on the goods and services ordered, or by reason of their sale or delivery. All order prices shall be deemed to have included all such taxes.

Seller agrees to pay any and all personal property and/or ad valorem taxes assessed or otherwise levied against any property placed in the hands of Seller by Buyer for the purpose of fulfilling this Order.

17. **LIMITATIONS ON BUYER'S LIABILITY.** In no event shall Buyer be liable to Seller for anticipated profits or for incidental or consequential damages. Buyer's liability for a claim of any kind for any loss or damage arising out of or in connection with or resulting from this Order, or from any performance or breach, shall in no case exceed the price allocable to the goods or services, which directly gives rise to the claim.

18. **ASSIGNMENT.** This Order is issued to the Seller in reliance upon the Seller's personal performance of the duties imposed. The Seller agrees not to, in whole or in part, assign this Order or delegate the performance of its duties without the written consent of the Buyer. Any such assignment or delegation without the prior written consent of the Buyer, at the option of the Buyer, shall effect a cancellation of this Order. Any consent by the Buyer to an assignment shall not be deemed to waive Buyer's right to recoupment from Seller and/or its assigns for any claim arising out of this Order.

19. **COMPLIANCE WITH LAW.** Seller shall comply with all applicable industry, federal, state and local laws, rules, regulations or ordinances, and standards as to the goods or products covered by the Order and otherwise in its performance of the Order, including but not limited to laws addressing Equal Employment Opportunity, Employment of Veterans, Employment of the Handicapped, Age Discrimination, Fair Labor Standards Act, Wages and Fringe Benefits and related Acts and Executive Orders as now or hereafter amended or codified.

20. **LAW/FORUM.** As permitted by Article 6 of the Convention on Contracts for the International & Sale of Goods, Buyer and Seller agree that this Order is not governed by the Convention on Contracts for the International Sale of Goods. This Order is to be governed by and construed under the laws of the state of Ohio, including without limitation the Uniform Commercial Code as it has been enacted and interpreted in the state of Ohio.

21. **ARBITRATION.** In the event a dispute arises between the parties regarding their business relationship where the amount in controversy as determined by the parties in good faith is less than Seventy Five Thousand Dollars (\$75,000.00) exclusive of costs, interests, or attorneys fees, the parties agree to submit such dispute to binding arbitration on the following terms and conditions:

(a) Demand For Arbitration: Either party may submit a written demand for arbitration in letter format to commence the arbitration process. The demand for arbitration shall include the specific amount claimed as damages specifically why the party is entitled to damages and include a copy of any documents that support said claims.

(b) Response To Demand For Arbitration: The party that receives a demand for arbitration shall forward a response in letter format acknowledging receipt of the demand for arbitration, setting forth its position regarding said dispute, making any counter-demand for damages (specific amount must be specified) including why the party is entitled to damages, attaching any documents in support of said positions and/or claims within thirty (30) days of receipt of the demand for arbitration.

(c) Selection Of Arbitrator: The matter will be submitted to a single arbitrator selected from the list of facilitative mediators maintained by the United States District Court for the Northern District of Ohio. In the event the parties are unable to agree on a single arbitrator, the ADR clerk of the Northern District of Ohio shall select one.

(d) No Discovery: No discovery of any kind or nature whatsoever will be allowed.

(e) Arbitration Costs: Each party will be responsible for their own attorneys' fees regardless of the outcome of the dispute. The parties shall be equally responsible for the costs of the arbitrator.

(f) Location Of Arbitration: The arbitration shall take place in Akron, Ohio.

(g) Arbitration Hearing: The arbitration hearing shall be scheduled no later than ninety (90) days from receipt of a demand for arbitration. No extensions shall be allowed by the arbitrator unless mutually agreed to by the parties. The demand for arbitration and response shall serve as the only pre-hearing information submitted to the arbitrator prior to the hearing. The arbitration hearing shall commence promptly at 9:00 a.m. and conclude no later than 12:30 p.m. The arbitration proceeding will proceed as follows:

(1) 9:00 a.m. to 10:30 a.m.: Presentation by the party who demanded arbitration.

(2) 10:30 a.m. to 10:45 a.m.: Break.

(3) 10:45 a.m. to 12:15 p.m.: Other party's time to present its position and information.

(4) 12:15 p.m. to 12:25 p.m.: The party who demanded arbitration's response.

(5) 12:25 p.m. to 12:30 p.m.: The other party's reply.

The Rules of Evidence shall not apply though the arbitrator may take into account the Rules of Evidence in terms of the weight that is to be given to any information submitted.

(h) Arbitrator's Decision: The parties will break for lunch from 12:30 p.m. to 1:30 p.m. and the arbitrator will render his or her final oral decision at 1:30 p.m. The arbitrator shall reduce the results only of the decision in a written opinion of the arbitrator no later than the close of business on the day following arbitration. The arbitrator's opinion shall be a final decision. Either party may seek enforcement of the arbitrator's final decision by court of competent jurisdiction.

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