



GENERAL TERMS AND CONDITIONS OF PURCHASE

UPDATED July 25, 2016

1. **ACCEPTANCE:** THIS PURCHASE ORDER IS LIMITED TO THE TERMS AND CONDITIONS SPECIFIED ON THE FACE OF THIS PURCHASE ORDER AND THIS DOCUMENT AND ANY ATTACHMENTS REFERENCED THEREIN. BUYER DOES NOT AGREE TO ANY PROPOSED ADDITION, ALTERATION, OR DELETION BY SELLER UNLESS AGREED TO IN WRITING BY THE PARTIES. ANY OTHER STATEMENT OR WRITING OF SELLER SHALL NOT ALTER, ADD TO, OR OTHERWISE AFFECT THESE TERMS AND CONDITIONS. THIS PURCHASE ORDER IS SUBJECT TO THE TERMS AND CONDITIONS OF ANY APPLICABLE WRITTEN AGREEMENT BETWEEN SELLER AND BUYER. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS PURCHASE ORDER AND THE TERMS OF ANY SUCH WRITTEN AGREEMENT, THE TERMS OF THE WRITTEN AGREEMENT BETWEEN SELLER AND BUYER SHALL GOVERN AND CONTROL.
2. **ORDER NUMBERS:** Buyer will communicate a purchase order number (the "Purchase Order Number") to Seller by telephone, fax or e-mail. Seller shall include the Purchase Order Number on every packing sheet, invoice and every other communication related to this order.
3. **PACKING AND SHIPPING:** All items must be properly prepared for shipment to secure lowest transportation rates and comply with carrier regulations. No charges will be paid by Buyer for packing, crating, or cartage unless so stated in the order. All shipments to be forwarded on one day via one route must be consolidated. To the extent practicable, items ordered under separate Purchase Order Numbers shall be segregated within the pallet, box or shipping container. A separate packing sheet for each order included in a shipment, showing Purchase Order Number, must be included with each shipment.
4. **SHIPMENT OR DELIVERY:** Time is of the essence for shipment or delivery and to any other performance required of Seller. Shipment or delivery shall be in accordance with the schedule set out in the purchase order and in exact quantities ordered. If it appears Seller will not meet such schedule or if Seller fails to meet such schedule, Seller shall, upon request of Buyer and in addition to any other rights or remedies provided to Buyer by law or under this purchase order, ship via expedited routing necessary either to meet such schedule or to recover the maximum possible time lost by failure to ship or deliver on schedule, and the difference between the expedited routing and the purchase order routing cost shall be borne by Seller. Buyer reserves the right, at Seller's expense, to return any goods shipped in advance of the schedule set out in the purchase order.
5. **INSPECTION:** All items are subject to final inspection and acceptance by Buyer at the destination notwithstanding any prior payment or inspection at the source. Acceptance of any items by Buyer shall not be deemed to alter the obligations of Seller or the rights of Buyer and its customers under the Warranty clause or any other provision of this purchase order.
6. **REJECTION:** Buyer shall notify Seller if any items delivered hereunder are rejected for being nonconforming, and, at Buyer's election and Seller's risk and expense, such items may be returned to Seller. Seller shall issue Buyer a credit for all costs and expenses with respect to such rejected items or replace or correct rejected items, at Buyer's election.
7. **WARRANTY:** Seller warrants that all goods delivered hereunder shall be merchantable, fit for their particular purpose and free from defects, whether latent or apparent. Seller warrants that all services performed hereunder shall be performed in a good and workmanlike manner by qualified, trained personnel, free from errors. Seller's warranties shall be enforceable by Buyer and shall run to Buyer's customer(s).
8. **CHANGES:** Buyer may make changes to any services to be performed or to any goods to be

specifically manufactured, but no change shall be effective, nor shall Buyer be obligated to pay any increase in compensation as a result of a change, unless Buyer issues a written change order. Changes which increase or decrease pricing shall be revised as mutually agreed to in writing.

9. **INVOICES/PAYMENT:** A separate invoice shall be issued for each shipment and for each Purchase Order Number, with the Purchase Order Number stated on the face of the invoice. No invoice shall be issued prior to shipment of goods, and no payment shall be made prior to receipt and acceptance of conforming goods and invoice. Payment terms commence upon receipt of a correct invoice. Payment terms are net 75 days of receipt of correct invoice. Seller acknowledges and agrees that contractors are required to register their company on a Buyer nominated marketplace or Buyer e-procurement system. Seller shall receive electronic purchase orders and Buyer shall receive electronic invoices via such marketplace.

10. **RESPONSIBILITY FOR PROPERTY:** Unless otherwise provided in this purchase order, Seller, upon delivery to it or manufacture or acquisition by it, of any materials, parts, tooling or other property, the title to which remains with Buyer, assumes the risk of and shall be responsible for any loss or damage. Seller, pursuant to the provisions of this purchase order, but in any event upon completion thereof, shall return such property to Buyer in the condition in which it was received, reasonable wear and tear excepted, except to the extent that such property has been incorporated into items delivered under this purchase order or has been reasonably consumed in performance of work under this purchase order.

11. **INDEMNITY:** Seller shall indemnify, hold harmless, and defend Buyer, its Affiliates and their respective officers, directors, agents, representatives, employees, subcontractors, customers, users of Seller's goods and services from any and all claims (including, without limitation, claims by vendees of Buyer), liabilities, damages and expenses (including attorneys' fees) arising from or related to (i) the negligence (including strict liability), gross negligence or willful misconduct of Seller, its affiliates and their respective employees, contractors, subcontractors, vendors and agents (the "Seller Parties"), (ii) contamination of or adverse effect on the environment, (iii) violation of any law or regulation or (iv) alleged infringement of any patent, copyright or trademark or violation of any other intellectual property right of a third party. This indemnity shall apply without regard to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, or other tort. This indemnity shall survive delivery and acceptance of goods or services. In any interparty dispute, the prevailing party shall be entitled to reasonable legal costs and expenses, including attorneys' fees.

12. **INSURANCE:** Seller shall maintain, at its sole cost, and shall require any subcontractors it may engage to maintain at all times while transacting business with Buyer and for two (2) years following acceptance of goods and services hereunder, the insurance coverage set forth below, with one or more insurance companies licensed to do business in the state where the work is performed and with a rating of not less than A, X or better as shown in the most current issue of the A.M. Best Rating Guide:

(a) Workers' Compensation Insurance as required by laws and regulations applicable to and covering any subcontractor's employees performing in connection with Seller's obligations hereunder at any Buyer location, and all employees of Seller engaged in Seller's performance of its obligations hereunder.

(b) Employers' Liability Insurance protecting Seller against common law liability in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$1,000,000.

(c) Commercial General Liability Insurance including coverages for premises/operations, products/completed operations, bodily injury, property damage, independent contractors and coverage for insured contracts specifically in support of the contractual obligations of Seller including, without limitation, any indemnity obligations hereunder, with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate and naming Buyer and its Affiliates as an additional insured.

(d) Automobile Liability Insurance including non-owned and hired vehicle coverage with limits of liability of

not less than \$1,000,000 per occurrence combined single limit and naming Buyer and its Affiliates as an additional insured.

Seller shall provide a certificate of insurance evidencing such insurance coverage that shall provide that the insurance carrier will give Buyer thirty (30) days' prior written notice of any cancellation or non-renewal of any policy or policies identified in such certificate.

13. PATENTS AND TRADEMARKS: Seller warrants that all goods and services supplied under this purchase order shall not infringe on any third party's patent, copyright, trade secret, trade name, trademark or service mark, or other proprietary right.

14. TITLE AND RISK OF LOSS: Seller warrants title to all goods sold and bears the risk of loss or damages to the items purchased under this purchase order until they are delivered in conformity with this purchase order at Buyer's delivery point specified in this purchase order or installed, as required pursuant to the purchase order, and, upon such delivery or installation, title shall pass to Buyer. Passing of title shall not constitute acceptance of the items by Buyer.

15. CONFIDENTIALITY: Seller shall keep confidential all information designated as confidential by Buyer or reasonably known to be confidential, including, but not limited to, designs, processes, drawings, specifications, reports, data and other technical or proprietary information and the features of all parts, equipment, tools, gauges, patterns and other items furnished or disclosed to the Seller by Buyer in connection with this purchase order ("Buyer's Confidential Information"). Seller shall not disclose such information to any third party without the written consent of Buyer and shall not use Buyer's Confidential Information except as contemplated in this purchase order. Upon completion or termination of this purchase order, Seller shall return all Buyer's Confidential Information to Buyer or make such other disposition thereof as may be directed and approved by Buyer and shall certify to such return or destruction.

16. COMPLIANCE: Seller warrants that all goods and services supplied under this purchase order shall comply with all applicable federal, state, and local laws, rules, regulations and ordinances at the time of delivery or performance. For on-site performance of services, if applicable, Seller shall adhere to all safety, health or other administrative requirements, rules, regulations or procedure of Buyer and its facilities where services are performed and shall provide to Buyer a health and safety declaration. **Seller and any subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), 60-741.5(a) and 29 CFR Part 471, Appendix A to Subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.** If this purchase order is a contract subject to Federal Acquisition Regulation Subpart 3.10, the parties agree that the provisions of the Guidance to all Government Contractors, along with the contractual requirements set forth in the clauses at 52.203-13, Contractor Code of Business Ethics and Conduct, and 52.203-14, Display of Hotline Poster(s), are hereby incorporated as terms and conditions of this purchase order. Seller shall comply with, and shall cause its employees, agents and subcontractors to comply with Buyer's "Supplier Code of Conduct". Any breach of the "Supplier Code of Conduct" may result in immediate termination of the purchase order by Buyer without liability for such termination upon prior written notice Seller.

17. TERMINATION: Buyer may terminate all or any portion of this purchase order at any time by giving notice to Seller. In the event of termination without cause, Buyer's liability shall be the lesser of: (a) a reasonable price for raw materials, components, work in progress, and any finished units on hand; or (b) the contract price per finished unit, after giving effect to any discount Buyer would otherwise be entitled to. In the event of termination without cause of any separate services specifically ordered, liability shall be the lesser of: (a) a reasonable price for properly performed services rendered prior to termination; or (b) the contract price for the services. If any hourly or other time-based rate for services is specified in this purchase order, such

rate shall be used in determining a reasonable price. THE FOREGOING STATES BUYER'S ENTIRE LIABILITY FOR TERMINATION. Additionally, Buyer may, by notice to Seller, terminate in whole or in part this purchase order in the event of suspension of Seller's business, insolvency of Seller, institution of bankruptcy, reorganization, or liquidation proceedings by or against Seller, the appointment of a trustee or receiver for Seller's property or business, any assignments by Seller for the benefit of creditors or a breach that is not cured after notice detailing such breach. The rights and remedies of Buyer provided in this Termination clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this purchase order.

18. SUBCONTRACTING AND ASSIGNMENT: Seller shall not assign this purchase order or any rights hereunder, nor delegate any duties, nor subcontract any work, without first securing the written approval of Buyer. Any attempts to do so will be null and void. The price quoted by Seller includes the price of any goods or services obtained from any subcontractor or supplier to Seller, unless otherwise agreed in advance by Buyer. Seller shall incorporate these terms and conditions on any order or subcontract approved by Buyer and procured from third parties pertaining to this purchase order. Seller shall remain fully responsible for all work performed by such third parties and shall indemnify and hold Buyer harmless for any payment required to be made to any such parties.

19. WAIVER: No waiver of any default by either party shall act as a waiver of a subsequent or different default.

20. MINORITY/WOMEN/VETERAN-OWNED FIRMS: Buyer and Seller shall support the utilization of qualified minority-owned, women-owned and service disabled veteran-owned business enterprises ("M/W/VBEs"). Seller shall institute and maintain a supplier diversity program.

21. PUBLICITY: Except as may be required by law or governmental rules or the requirements of any exchange on which securities of Seller or an affiliate of Seller are traded, Seller shall not, without the prior written consent of Buyer, which may be granted or withheld at Buyer's sole discretion: (a) use Buyer's name, brand, trademarks or any descriptions of Buyer and/or its industry that would allow a third party to identify Buyer ("Buyer's Brand"), in advertising or promotional material, publicity releases or for any other commercial purpose; (b) in any manner advertise, publish or disclose the fact that Buyer has placed this purchase order with Seller; or (c) disclose the subject matter or terms and conditions of this purchase order. Seller shall comply with the restrictions accompanying Buyer's consent, including but not limited to scope and term limitations. Unless otherwise specified by Buyer in writing, Buyer consents shall be deemed to be "initial use only," and will expire immediately after Seller's first use of Buyer's Brand as set forth in the applicable Buyer consent. Any and all subsequent uses, including but not limited to re-publication of advertising or promotional material, duplicate or follow-up press releases or like publications shall each require an updated consent, duly executed by the Buyer. In no case shall Seller or an affiliate of Seller use Buyer's Brand or information about Buyer's industry, equipment or operations in a manner that disparages Buyer.

22. THIRD PARTY BENEFICIARIES: Seller acknowledges that Buyer's ultimate parent and its subsidiaries are third party beneficiaries ("Affiliates") of these terms and conditions. Affiliates shall have the right to exercise all of the rights of Buyer under these terms and conditions. References in the purchase order to Buyer shall be deemed to include Affiliates as the context requires.

23. MISCELLANEOUS: Section headings are for convenience only and shall have no legal or interpretive effect. This purchase order shall be governed by and construed under the laws of the State of Texas, without regard to its conflicts-of-law rules. In the event any dispute arises under this purchase order that exceeds \$100,000 that cannot be resolved by informal negotiation, the parties agree to participate in mediation as a condition precedent to pursuing litigation. The mediation shall be conducted by a licensed, qualified mediator in Houston, Texas. Nothing herein shall be construed as creating an exclusive relationship between Buyer and Seller regarding the goods or services. Buyer reserves the right to engage other persons or entities to provide goods and services similar to those provided hereunder. Buyer shall have the right to audit the books and records of Seller relevant to this purchase order, at Seller's place of business or by electronic delivery, until four (4) years after delivery of goods and/or performance of services. Any notices required hereunder shall be

given in writing to the addresses set out in the purchase order and shall be deemed effective on the same day any such written notice is personally served, or on the third (3rd) day after such notice is deposited in the United States mail or with a nationally recognized overnight delivery service.