

PURCHASE ORDER TERMS AND CONDITIONS

GOVERNING PROVISIONS. Each shipment received by Buyer from Seller shall be deemed to be only upon the terms, including these Purchase Order Terms & Conditions, contained in this Purchase Order, except as they may be added to, modified, superseded, or otherwise altered by Buyer, notwithstanding any terms and conditions that may be contained in any acknowledgment, invoice or other form of Seller and notwithstanding Buyer's act of accepting or paying for any shipment or any similar act of Buyer and Buyer hereby rejects any different or additional terms and conditions proposed by Seller. If this order is sent to Seller in response to a quotation or an offer of Seller submitted to Buyer, the terms of this Purchase Order including these Purchase Order Terms & Conditions (collectively the "Order"), shall supersede and control all provisions in the quotation or offer of Seller and shall be a rejection of such quotation or offer and an offer to Seller. Seller's shipment of any of the goods, or the like (the "Products") or performance of any of the services (the "Services") covered by this Purchase Order, or Seller's receipt of any payment made pursuant to this Purchase Order, shall constitute Seller's acceptance of this Purchase Order (including these Purchase Order Terms & Conditions), as fully as if Seller had accepted in writing. In the event of a conflict between the terms in the body of the Purchase Order and these Purchase Order Terms and Conditions, such terms in the body of the Purchase Order shall prevail.

COMPLIANCE WITH LAWS. Seller warrants that the Products shall be adequately contained, packaged, marked, labeled and registered in compliance with, and that the Products and Services shall conform to, the requirements of all applicable federal, state and local laws, regulations, rules and orders. In accordance with the foregoing provision, but not by way of limitation, it is specifically understood that Buyer is an Equal Opportunity Employer and Seller warrants that Seller complies with the Fair Labor Standard Act of 1938, as amended. Seller agrees that, if this is construed to be subcontract within the meaning of the Rules and Regulations approved by the United States Secretary of Labor pursuant to Executive Order 11246, as amended, the Vietnam Era Veterans Readjustment Act of 1974, as amended, or the Rehabilitation Act of 1973, as amended, or of the regulations issued pursuant to Executive Order 11625, the provisions of the applicable regulations as well as the Equal Opportunity and Nondiscrimination provision of Section 202 of Executive Order 12466 shall be incorporated herein by reference and shall be binding upon Seller as part of this Order.

Seller warrants that all Products and Services meet or exceed the safety standards established and promulgated under the Occupational Safety and Health Act of 1970, and the regulations issued thereunder, as amended. Seller warrants that every chemical substance and/or mixture as defined under the Toxic Substance Control Act, as amended, contained in the Products or utilized in their manufacture or the Services, has been properly reported to the Environmental Protection Agency in accordance with the provisions of the Toxic Substance Control Act and the regulations issued pursuant thereto. Seller warrants that each shipment or other delivery of the Products covered by this Order, are as of the date of shipment or delivery, whichever is later, not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended (the "Act") and are not articles which may not, under the provisions of Section 405, 505 or 512 of the Act, be introduced into interstate commerce and are not adulterated or misbranded within the meaning of the food, drug or cosmetic laws of any state or municipality. The foregoing guarantee shall be a continuing guarantee and shall apply to each shipment. Seller warrants that all color additives covered by this Order were manufactured by Seller and (where color additive regulations require certification) are from batches certified in accordance with the applicable regulations promulgated under this Act. Seller shall defend, indemnify and save harmless Buyer from and against any claims, liabilities, expenses (including attorneys' fees) fines, penalties, damages and/or economic losses associated with the failure of Seller, the Products and/or the Services to comply with the requirements of this Paragraph 2.

PRICE AND DELIVERY. The price for Products (other than equipment) shall cover the net weight of the Products. No extra charge of any kind, including charges for boxing, packing or crating shall be allowed unless specifically agreed to in writing in advance by Buyer.

Seller warrants that the prices for the Products sold to Buyer are not less favorable than those currently extended to any other customer for the same or like goods in equal or less quantities. In the event Seller reduces its price for such goods during the term of this Order, Seller agrees to reduce the price of the Products correspondingly.

At any time during the term of this Order that Buyer can purchase goods of a like quantity at a price under terms which will result in a delivered cost to Buyer that is lower than the delivered cost of the Products, Buyer may notify Seller of such lower delivered cost and Seller shall, within fifteen (15) days after such notice, advise Buyer in writing whether or not Seller shall meet such price or other terms. If Seller fails to do so, Buyer may purchase the lower delivered cost goods, and the quantity of any purchase so made shall correspondingly reduce the purchase and sales obligations of Buyer and Seller hereunder.

Unless otherwise provided on this Order, delivery of the Products shall be made at Seller's expense at the location specified on the Order and shall not be deemed complete until the Products have actually been received and accepted by Buyer. Risk of loss and/or damage shall remain with Seller until receipt thereof by Buyer.

INSPECTION AND ACCEPTANCE. All Products shall be received subject to Buyer's rights of inspection, rejection, and revocation (pursuant to the provisions of Article 2 of the Uniform Commercial Code).

Buyer's signature on any shipping/receiving or acknowledgment documents shall not constitute acceptance of Products or Services or any different terms or conditions, or acknowledge condition of Products but shall merely acknowledge receipt of a shipment.

Buyer may elect to have in-process inspection of the Products provided hereunder. Seller shall permit free and reasonable access to Seller's facilities to perform such surveillance activities.

Without limiting any of Buyer's rights provided by law or by this Order, Seller shall, upon request of Buyer and at Seller's expense, immediately replace at Buyer's facility any Products rightfully rejected by Buyer.

Payment for or use of Products prior to inspection shall not constitute acceptance thereof and shall be made without prejudice to any and all claims that Buyer may have against Seller.

INSURANCE Seller agrees to carry the following minimum insurance which shall be primary to any insurance maintained by Buyer:

Commercial General Liability, including Completed Operations and Product Liability Insurance; Blanket Contractual, with an endorsement naming Buyer as an additional insured with minimum limits of liability of \$2,000,000 each occurrence combined single limit.

Not later than ten (10) days from the date of this Order but in any case prior to Seller's entering Buyer's property to perform Services, a certificate evidencing the above coverage shall be provided to Buyer and said certificate shall provide that Buyer shall be given thirty (30) days advance notice in the event of cancellation or material modification of the coverage.

TAXES AND GOVERNMENTAL CHARGES. This Order shall not include Sales or Use taxes, or shall such taxes be added to the purchase price if Buyer has indicated in the space provided for such purpose on this Order, that the purchase is exempt from such taxes. Seller agrees to pay any other taxes imposed by Federal, State, or local law upon the Products or Services sold to Buyer hereunder unless otherwise agreed, except taxes required by law to be paid or borne by Buyer.

Seller shall, upon request of Buyer, inform Buyer whether the Products are imported or manufactured with imported materials and furnish Buyer with all documentation required for duty drawback for product or imported materials contained in the Product purchased by Buyer hereunder.

PATENTS. Seller agrees to defend, indemnify and hold harmless Buyer, its successors customers and users, from and against all liability, economic loss, damage, and expense (including attorneys' fees) associated with any actual or alleged infringement of any intellectual property right or any litigation based thereon, with respect to the Products or Services (or any part thereof covered by this Order, and any such obligation shall survive acceptance of such Products or Services and payment therefore by Buyer.

INDEMNIFICATION. Seller shall assume the sole responsibility for any and all damage or injury (including death) to any and all persons (including, but not limited to employees of Seller or Buyer) and to all property associated with the performance of its obligations under this Order or an act or omission of Seller, and shall defend, indemnify and save harmless Buyer from and against any and all claims, liabilities, expenses (including attorneys' fees), fines, penalties, damages and/or economic losses of whatsoever nature associated therewith except for such claims, liabilities, etc caused by the sole negligence of Buyer. Seller hereby releases and waives all rights of subrogation against Buyer possessed by Seller's insurers. Seller hereby represents that it is authorized by its insurers to grant such release and waiver.

WARRANTY. Seller warrants good title to all Products. Seller warrants that the Products are new, merchantable, safe, fit for intended use, free from defects in workmanship and materials and conform to any specifications, drawings, samples, or other descriptions referenced herein or applicable thereto.

Seller further warrants that all Services shall be performed in accordance with the highest standards, in a workmanlike manner, free from defects in workmanship and materials and in conformance with all specifications, plans, or drawings referenced herein or applicable thereto. Products or Services found to be defective in material or workmanship or nonconforming with specifications within eighteen months from the date of shipment (or performance) or twelve month from the date of putting same into service, whichever date occurs first, shall, at Buyer's option, be corrected or repaired in place by Seller, or be replaced at Buyer's facilities by Seller, or be returned to Seller at Seller's expense (including transportation and handling costs) for repair, replacement or full refund. Repair or replacement shall be initiated immediately and shall be pursued diligently and continuously, utilizing Seller's best efforts in order to minimize the impact on Buyer's operations.

Seller warrants that none of the computer hardware and software (including mask code and microcode) systems and equipment incorporated in the Products contain any viruses or other harmful or disabling code or any date dependent routines or logic which will fail to correctly operate after December 31, 1999.

All warranties shall survive any inspection, delivery, use or acceptance of Products or Services, or payment therefore by Buyer. Seller agrees that all warranties and indemnities applicable to Products provided hereunder shall automatically inure to the benefit of, and be directly enforceable by a third party purchasing or receiving such Products from Buyer. Any costs, expenses or damages incurred by Buyer associated with a breach of these warranties shall be borne by Seller and may be offset against any monies owing to Seller hereunder or otherwise.

LIEN WAIVERS. Seller shall, at its sole cost and expense, obtain from all its subcontractor and materialmen waivers and releases of all liens which may be imposed by them against the premises of Buyer or the improvements thereon, associated with any Products or Service performed hereunder, and Seller shall defend, indemnify and hold harmless Buyer with respect thereto.

CANCELLATION. Time is of the essence of this Order. In addition to all its other legal remedies, Buyer reserves the right to cancel all or any part of the undelivered or unperformed portion of this Order if Seller does not make deliveries or perform as specified, or if Seller breaches any of the terms hereof. In the event of such cancellation, Seller shall be liable to Buyer for an excess cost or procurement cost as well as incidental, economic and consequential damages or loss sustained as a result thereof.

ASSIGNMENT. This Order or any right or obligation associated therewith may not be assigned or transferred by Seller in the absence of Buyer's prior written consent thereto and an purported assignment or transfer absent such consent shall be void.

SECRECY. Seller agrees not to make any use of writings, data, designs, drawings, specifications or any other information furnished to it by Buyer or observed or developed by Seller associated with this Order and to not disclose any of the foregoing to third parties, except as required in the performance of this Order and then only after first obtaining a written agreement from such third parties to be bound by similar secrecy and use restrictions. Upon completion of cancellation or termination of this Order, Seller shall return to Buyer all of the foregoing, including a copies, extracts or derivatives of tangible materials containing any such information made by Seller or third parties employed by Seller. Buyer shall at all times have title to all drawings, specifications, writings or other documents prepared or furnished by Seller hereunder. All Products produced for Buyer hereunder which are subject to or may be copyrighted under the Federal Copyright Act shall be deemed to be "works made for hire" and title to and ownership of such Products shall at all time be in Buyer.

MATERIAL SAFETY DATA SHEETS. If this Order covers the purchase of chemicals or raw materials, Seller shall furnish Buyer, prior to the first delivery, Seller's current Material Safety Data Sheet and other literature pertaining to the hazards associated with the Products and the precautions which should be observed with respect thereto. Seller shall promptly furnish Buyer copies of any revisions to any of the same issued by Seller during the term of this Order.

WAIVER. The failure of Buyer to insist in any instance upon strict performance by Seller or any provision of this Order shall not be construed as a continuing waiver of such item, or waiver or any other provision of this Order.

APPLICABLE LAW. This Order shall be governed by and construed in accordance with the laws applicable to Buyer's location set forth on this order without reference to its conflicts of law principles.

SUBSTANCE ABUSE. Seller certifies that at all times while Seller's employees are on Buyer premises, Seller shall be in compliance with the Drug Free Workplace Act of 1988, as it may be amended, (which shall be deemed to apply to all Services performed hereunder) and any governmental laws or regulations regarding substance abuse. Seller will take all action: (i) necessary to comply with such requirements, and (ii) which Buyer reasonably deems necessary to prevent substance abuse or their influence on Seller's employees while on Buyer's premises.

NON-COLLUSION. Seller warrants that Seller has not and will not, directly or indirectly, enter into any agreement, participate in a collusion or otherwise take any action in restraint of free or competitive bidding, including, but not limited to, any offer or promise of future employment or business opportunity by or for any contractor or subcontractor, or any personnel of Buyer or its contractors or subcontractors associated with this transaction.

ANTI-KICKBACK. When Seller has reasonable grounds to believe that a Buyer or Seller employee, subcontractor or subcontractor employee, directly or indirectly, solicited, accepted or attempted to accept any money, fee, gratuity, offer or promise of future employment or business opportunity, or thing of value of any kind for the purpose of improperly obtaining or rewarding favorable treatment in connection with a contract or subcontract associated with Buyer, Seller shall promptly report in detail the possible misconduct to Buyer's Corporate Security Department or Buyer's confidential Compliance Hotline at 1-800-241-1280.