

## PURCHASE ORDER TERMS AND CONDITIONS

1. **GENERAL** - This Purchase Order (which term shall be deemed to include plans, specifications, regulations, and other documents only to the extent that any of the same are incorporated by reference) contains the entire agreement of the parties, and expressly limits acceptance to the terms stated herein. Any additional or different terms proposed by Seller are objected to and are hereby rejected unless the Buyer shall accept the same in writing. Shipment of any goods or rendering of any services pursuant to this Order shall be deemed to be an acceptance by Seller of the precise terms and conditions hereof. Failure of any party to enforce its rights under this Purchase Order shall not constitute a waiver of such rights or any other rights under this Purchase Order or otherwise.
2. **DELIVERY** – Unless otherwise provided in the Purchase Order, delivery in whole or in part shall not be made more than 10 days prior to required delivery dates. Buyer may return earlier deliveries at Seller's risk and expense. Seller shall comply with the delivery schedule but shall not make material or production commitments in advance of such time as Seller reasonably believes necessary to meet the schedule without prior written approval by Buyer.
3. **SUBSTITUTIONS** – Seller shall not substitute materials without written consent of Buyer.
4. **QUANTITY** – No variations in quantity shall be accepted for payment except as authorized in writing by Buyer's purchasing department. Over shipments may be returned to Seller at Seller's expense, which shall include a reasonable cost for Buyer's handling, or retained by Buyer at no increase in price. To the extent that goods covered by this Purchase Order are produced in accordance with drawings or specifications which are proprietary to Buyer or to Buyer's customer, Seller shall not manufacture or retain for the purpose of display or otherwise any more such goods, or parts therefore, than are required to be delivered under this Purchase Order. Any such excess goods, or parts therefore, shall be delivered free of charge to Buyer at the designated delivery point at Seller's risk and expense unless otherwise agreed in writing.
5. **CHANGES** – Buyer may at any time, by written order, make changes or additions within the general scope of this Purchase Order, in any one or more of the following: (i) drawings, designs, statement or work, or specifications; (ii) method of shipment or packing, (iii) place of inspection, delivery or acceptance; (iv) quantities, where reasonable, and (v) delivery schedules where reasonable.  
  
If any such change causes an increase in the cost of, or the time required for, performance of this Purchase Order, Seller shall notify Buyer in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of this Purchase Order. Any claim by Seller for such adjustment must be asserted within 15 days, or such other period as may be agreed on in writing by the parties, after Seller's receipt of notice of the change. Nothing contained in this paragraph shall excuse Seller from proceeding with the contract as changed.
6. **WARRANTY** – Seller warrants that goods covered by this Purchase Order will conform to the design and specifications and to drawings, samples, or other descriptions referred to in this Purchase Order, will be free from defects in material and workmanship, and, to the extent that Seller knows or has reason to know of the purpose of which the supplies are intended, will be fit and sufficient for such purpose. Seller further expressly warrants that all services will be performed in a workmanlike, efficient and safe manner and will conform to standards generally accepted in the relevant trade or industry. The warranties contained in this paragraph shall run to Buyer and its customers.
7. **BREACH OF WARRANTY** – Buyer, notwithstanding any prior acceptance, at its option, may reject and return for credit or require prompt rework of any goods, which are defective in material or workmanship or otherwise fail to conform to all applicable specifications. All goods furnished under this Purchase Order shall be subject to inspection at destination, notwithstanding any previous source inspection, and Seller shall be given notice of any defects or nonconformities other than latent defects within a reasonable time after receipt of the goods. Buyer may, in addition to any rights it may have by law, prepare for shipment and ship the goods to Seller for credit or for rework to correct any defect, at Buyer's option and the expense of any such action, including transportation both ways, if any, shall be borne by Seller. If Seller is unable to tender goods meeting the specifications, Buyer may cancel this Purchase Order without further obligation with respect to the nonconforming goods.
8. **BUYER'S INFORMATION** – Any drawings, specifications, software photographs, and other engineering and manufacturing information furnished by Buyer shall remain Buyer's property, shall be duplicated only as authorized in writing by Buyer, and shall be returned to Buyer upon request or when no longer needed for performance of this Purchase Order. Except as may be necessary for performance of this Purchase Order, Seller shall not use or disclose furnished information concerning Buyer's products without the prior written consent of Buyer.
9. **LIENS** – Seller shall deliver the goods covered by the contract free of all liens, claims, and encumbrances in favor of third parties.
10. **ASSIGNMENT** – Neither this order nor any payments hereunder are assignable or transferable without Buyer's written approval.
11. **RISK OF LOSS** – Except as specifically provided in this Purchase Order, (a) Seller shall be responsible for goods covered by this Purchase Order until final inspection and acceptance thereof by Buyer, and (b) Seller shall bear all risks as to rejected goods or goods requiring rework after notice of rejection notwithstanding any prior acceptance.
12. **INVOICE AND PAYMENT** – A separate invoice shall be issued for each shipment. Unless otherwise specified in this Purchase Order, no invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and correct invoice. Payment due dates, including discount periods, will be computed from the date of receipt of goods or date of receipt of correct invoice (whichever is later) to date Buyer's check is issued. Unless freight and other charges are itemized, any discount taken will be taken on full amount of invoice.
13. **FEDERAL, STATE, AND LOCAL TAXES** – Except as may be otherwise provided in this Purchase Order, the price includes all applicable federal, state, and local taxes and duties.
14. **APPLICABLE LAW** – The rights and obligations of the parties to this contract shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods, but instead by the laws of the State of California, including its provisions of the Uniform Commercial Code, but not its conflict of laws provisions.
15. **DISPUTES** – Any dispute arising under this Purchase Order, which is not settled by agreement of the parties, may be settled by appropriate legal proceedings. Pending any decision, appeal, or judgment in such proceedings or the settlement of any dispute arising under this order, Seller shall proceed diligently with the performance hereof in accordance with the decision of Buyer.
16. **BANKRUPTCY, ETC.** – If a receiver for Seller is appointed, if an assignment for the benefit of creditors is made by Seller or if an agreement between Seller and its creditors generally is entered into providing for extension or composition of debt. Buyer may at its sole option terminate this Purchase Order without further liability on the part of Buyer except as to deliveries previously made and except as to goods already identified to this Purchase Order, which shall be completed and delivered within a reasonable time in accordance with all terms of this Purchase Order. After any order for relief under the Bankruptcy Code is entered against Seller, Seller must assume or reject this Purchase Order within 60 days after the order for relief is entered. If Seller does not assume this Purchase Order with such 60-day period, Buyer may at its sole option terminate this Purchase Order without further liability on the part of Buyer except as to deliveries previously made and except as to goods identified to this Purchase Order, which shall be completed and delivered within a reasonable time in accordance with all terms of this Purchase Order.
17. **TERMINATION FOR CONVENIENCE** – Buyer may terminate all or any part of this Purchase Order at any time upon five (5) days written notice to Seller. Thereafter, Buyer will pay Seller's costs properly incurred prior to the date of termination together with a reasonable profit on the part of the work performed prior to termination.
18. **PATENT OR COPYRIGHT INDEMNITY** – Seller shall, at its sole expense, defend any suit or proceeding brought against Buyer so far as such suit shall be based on a claim that any goods or any part thereof furnished under this Purchase Order constitutes an infringement of any patent or copyright granted under laws of the United States or any other country, if notified promptly in writing and given authority, information and assistance (at Seller's expense) necessary for the defense of the suit or proceedings, and Seller shall pay all damages and costs awarded therein. If the use of such goods or part thereof is enjoined in such suit, Seller shall, at its own expense and at its option, either procure for the Buyer the right to continue using such goods or part thereof, or replace the infringing goods or part thereof with a noninfringing equivalent or modify it so it becomes noninfringing, or upon showing inability to do any of the foregoing, shall remove such goods or part thereof and refund the purchase price and the transportation and installation costs thereof.
19. **THIRD PARTY CLAIMS** – Seller agrees to indemnify, hold harmless and defend Buyer, its officers, agents and employees, parents, subsidiaries, successors and assigns against any loss, cost, damage or expense (including attorney's fees) arising out of any claim or charge for personal injury, death or property damage or loss asserted against any of the foregoing parties and attributable to the sale and delivery of goods or services to Buyer or the use thereof by Buyer, unless resulting from the sole negligence of Buyer.