

## ADDITIONAL TERMS

1. **QUALITY:** Seller warrants that the goods will conform to all applicable descriptions and specifications and will be free from all defects in design, material and workmanship (other than Buyer's design). Buyer shall have the right to inspect and test any goods before acceptance if such inspection and test are made within a reasonable time or as provided in the specifications. Seller shall pay the cost of inspecting and testing of all goods rejected and all return transportation charges. Upon request of Buyer, Seller, at its sole expense, shall repair, or replace f.o.b. Seller's plant, all or any part of any machinery or equipment covered by this Order which proves, within one (1) year from the date it is placed in operation but no later than eighteen (18) months from date of shipment, to be defective in design, material, or workmanship.
2. **QUANTITY:** Goods shipped in excess of quantity designated in the Order may be returned at Seller's expense.
3. **TRANSPORTATION CHARGES:** Except as otherwise mutually agreed to in writing, (a) where transportation charges are separately charged to Buyer by Seller, such charges shall in no event exceed the lowest legal freight charges via the carrier or routing specified as of the date of shipment, and (b) where transportation charges are allowed to Buyer by Seller, such allowance shall not be less than the actual freight charges paid by Buyer or, where Buyer performs the transportation, such allowance shall be in an amount equal to the freight charges which would have been assessed for a like movement via common carrier.
4. **DELIVERY:** The goods shall be properly packaged for shipment. Each package shall be numbered and labeled with Buyer's Order number, stock number, contents, and weight, and shall contain an itemized packing slip. No charges will be allowed for packing, crating, freight express or cartage unless specified in this Order. Time is of the essence. If delivery dates cannot be met, Seller shall promptly notify Buyer in writing of Seller's best possible delivery date(s). Upon Buyer's receipt of the notice of delay or if any goods are not delivered within the time specified in this Order, or within a reasonable time if no time is specified, Buyer may either (a) cancel the Order in whole or in part, (b) refuse to accept such goods and terminate this Order, or (c) cause Seller to ship the goods by the most expeditious means of transportation at Seller's sole expense.
5. **INVOICES:** Unless otherwise requested by Buyer, invoices shall (a) conform to the terms outlined in this Order, (b) be rendered separately for each delivery, (c) cover no more than one Order, (d) indicate Buyer's Order number.
6. **INTELLECTUAL PROPERTY:** Seller warrants and represents that the goods sold and services provided by Seller do not and shall not infringe any third party Intellectual Property Right(s) which may include but are not limited to rights in patent, copyright, trademark, tradename or trade secret. In the event that Buyer is notified of a claim of infringement or is otherwise prevented or enjoined from using any of the goods delivered, for any reason, Seller, at its option, shall promptly either (a) secure termination of the injunction and procure for Buyer the right to use such goods without any obligation or liability, (b) replace said goods with non-infringing goods or modify same to become non-infringing, all at Seller's expense and to Buyer's satisfaction, or (c) remove said goods at Seller's expense and refund to Buyer the amount paid to Seller.
7. **INSTALLATION AND WORK:** To the extent that any of the goods require the services of a supervisor, expert or other person connected with or employed by Seller ("Expert"), in connection with the installation, adjustment, repair, replacement or other services to be performed on the goods, Seller agrees to furnish the Expert without charge unless otherwise indicated. The Expert in performing the services shall not be deemed to be the agent or employee of Buyer. Seller assumes sole responsibility for the Expert's acts and omissions as well as liability for any taxes or contributions imposed by federal, state or local law including but not limited to payroll, Social Security, unemployment and other taxes.
8. **INSURANCE:** Upon acceptance of an Order, Buyer may require Seller to procure and maintain, at its expense, General Liability insurance covering Seller's indemnity obligations in such amounts as are approved by Buyer. In Addition, prior to commencing any work on property owned or controlled by Buyer or any party on whose property the goods are installed, Seller shall, at its expense, procure and maintain Worker's Compensation insurance and Employer's Liability insurance in such amounts as are approved by Buyer. As to all coverages, Seller shall furnish to Buyer written certificates establishing (a) the required insurance is being maintained with a carrier rated not less than B+, VII by A.M. Best & Co. and (b) that written notice of cancellation shall be given to Buyer at least fifteen (15) days prior to the effective date of such cancellation. Upon Buyer's request, Seller shall name Buyer as an additional loss payee in any applicable policy.
9. **INDEMNITY:** Seller shall protect, defend (at Buyer's election), hold harmless and indemnify Buyer or any party on whose property the Buyer's goods are installed from and against all claims, actions, liabilities, losses, royalties, damages or expenses (including attorney fees): (a) arising out of any actual or alleged infringement of any Intellectual Property Right by any goods or services sold or provided to Buyer; (b) arising out of any death of or injury, sickness or disease inflicted upon any person, or damage to any property, or any other damage or loss by whomsoever suffered, regardless of whether the injury or loss is alleged to have resulted from the fault or negligence of Buyer, allegedly resulting or claimed to result in whole or in part from (i.) any actual or alleged defect in the goods (latent or patent), or (ii.) services rendered in connection with the goods, or (iii.) actual or alleged improper or negligent manufacture, construction, installation or design of the goods, or (iv.) the failure of the goods or services to comply with specifications or any express or implied warranties of Seller; (c) arising out of any actual or alleged breach of the terms, warranties and representations made by Seller in this Order or otherwise in the sale of the goods; (d) arising out of any actual or alleged violation, in the manufacture, possession, use or sale of the goods, of any law, statute, regulation, administrative order or rule excepting only such claims based solely and directly on alteration or modification of the goods by Buyer; (e) arising from the loss or destruction of, or damage to, all tools, equipment and other personal property of Seller, and subcontractor of Seller, or any of their employees or agents, whether or not such loss, destruction or damage was in any way connected with the negligence of Buyer. Seller agrees to submit to the jurisdiction and venue of any state or federal court in which a lawsuit is filed against Buyer. In addition to the rights set out above Buyer shall have the right to recover from Seller its expenses, including attorney fees incurred: (A) in collecting any amount owed to Buyer by Seller, (B) as a result of a dispute between Seller and Buyer over the terms of this Order, or (C) in responding to any request for information for any reason including lawsuits, regulatory proceedings or any other legal matter.
10. **FORCE MAJEURE:** Neither party shall be liable to the other for default or delay in performing its obligations hereunder if caused by fire, strike, riot, war, act of God, governmental orders or regulation, complete or partial shutdown of plant by reason of inability to obtain sufficient raw material or power, and/or any other similar or different occurrences beyond the reasonable control of the party so defaulting or delaying. The party whose performance is prevented by any such occurrence shall notify the other party in writing as soon as is reasonably possible after the commencement of such occurrence, setting forth the full details of the occurrence and expected delay, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the other party of the cessation of such occurrence. Buyer shall make no payment to Seller for any expenses incurred by Seller by reason of such default or delay. If Seller cannot remedy the delay within a reasonable time, the Buyer may cancel the Order in whole or in part.
11. **DRAWINGS AND OTHER ITEMS:** Unless otherwise expressly provided in this Order, all drawings, blueprints, dies, patterns, tools, printing plates, and other items used in connection with the manufacture of the goods, which are prepared or constructed by Seller in fulfilling this Order, shall be the property of the Buyer, and upon completion of deliveries of the goods hereunder, or upon termination of this Order, shall be delivered to Buyer.
12. **COMPLIANCE WITH LAWS:** Seller warrants that its goods are produced in compliance with and shall otherwise comply with all laws, ordinances, and government rules, regulations and orders applicable to this Order, including, but not limited to, the FAIR LABOR STANDARDS ACT, applicable Federal Acquisition Regulation Clauses related to SELLER'S CERTIFICATION OF NONSEGREGATED FACILITIES (FAR 52.222-21), EQUAL OPPORTUNITY (FAR 52.222-26), AFFIRMATIVE ACTION FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS (FAR 52.222-35), AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (FAR 52.222-36), UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (FAR 52.219-8,-9), and THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, which to the extent applicable are hereby incorporated into this Order. The provisions of Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity), 38 USC 4212 (Vietnam Veterans' Readjustment Assistance Act of 1974), Section 503 of the Rehabilitation Act of 1973 (handicapped Regulations) and the implementing regulations found at 41 CFR 60-1 & 2, 41 CFR 60-250, and 41 CFR 60-741, respectively, are hereby incorporated by reference. Seller agrees to certify its compliance upon request of Buyer.
13. **ASSIGNMENT:** Any assignment of this Order without the prior written consent of Buyer shall be void.
14. **NON-WAIVER:** No waiver by either party of any breach of any of the terms of this Order to be performed by the other party shall be construed as a waiver of any subsequent breach, whether of the same or of any other term of this Order.
15. **REMEDIES:** The rights and remedies of Buyer set forth in this Order are not exclusive and are in addition to all other rights and remedies of Buyer.
16. **GOVERNING LAW:** The validity, interpretation, and performance of this Order shall be governed by the law of the State of Delaware. Seller agrees to submit to the jurisdiction and venue of any state or federal court in which Buyer issues this Order.
17. **MISCELLANEOUS:** If this Order constitutes an offer, Seller's acceptance of this Order is hereby expressly limited to the terms of this Order and shipment of any part of the goods covered hereunder shall be deemed to constitute such acceptance. If this Order constitutes an acceptance of an offer, such acceptance is expressly made conditional on Seller's assent to the terms of this Order, and shipment of any part of the goods covered hereunder shall be deemed to constitute such assent. This Order constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and there are no oral understandings, representations or warranties affecting it. Neither course of performance nor course of dealing nor usage of trade shall be used to interpret, construe, qualify, explain or supplement any of the terms of this Order. This Order shall not be amended except in writing signed by the parties.