

## STANDARD TERMS AND CONDITIONS OF PURCHASE (CANADA)

- 1. ACCEPTANCE OF ORDER.** Acceptance by Seller of the order from Buyer, in any format, being hereafter referred to as a "Purchase Order" shall constitute acceptance by Seller of the terms and conditions hereof. The contract arising from such acceptance (the "Contract") constitutes the entire agreement between Buyer and Seller, supersedes all prior negotiations, understandings and agreements, written, oral or otherwise, with respect to the subject matter hereof and may not be modified or assigned except in writing, signed by the parties. The Contract excludes wording, or any document, used by Seller to communicate its acceptance of the Purchase Order and any terms or conditions that could be implied on the basis of trade custom or business efficiency.
- 2. AMENDMENTS.** No agreement or understanding to modify this contract shall be binding upon the Buyer unless in writing and signed by Buyer's authorized agent including notice, to suspend work or to make changes in the services, goods or delivery date. If such changes materially increase or decrease Seller's cost or time for performance an equitable adjustment in price and/or schedule shall be made.
- 3. PACKING.** All items of property ordered are to be packed in suitable containers for protection in shipment and storage. No charge shall be made for cartons, wrapping packing, boxing, crating, delivery, drayage, or other costs, unless authority for such charge is expressly incorporated in this order.
- 4. PACKING SLIP.** An itemized packing slip bearing the Buyer's order number as shown herein must accompany each delivery. The purchase order number and part number must appear on all invoices, packages and bills of lading. The Buyer's count will be accepted as conclusive on all shipments.
- 5. TERMINATION.** A.) notwithstanding any other provision of the Purchase Order, Buyer may terminate this Purchase Order for its convenience in whole or part, at any time by written notice to Seller, in which event Buyer's sole obligation shall be to reimburse Seller for: 1) those goods actually shipped and accepted by Buyer up to the date of termination and 2) direct, verifiable reasonable costs incurred by Seller for unfinished goods or services which are specifically manufactured or furnished to Buyer. B.) Notwithstanding any other provision of this Purchase Order, Buyer may terminate this Purchase Order for cause in whole or part without prejudice to any other right or remedy Buyer may have upon written notice to Seller if 1) Seller should be adjudged bankrupt; 2) Seller should make an assignment for the benefit of its creditors; 3) Seller should fail to comply with any terms and or conditions of this Purchase Order or; 4) Seller should be experiencing a labor dispute which threatens to have a substantial adverse effect upon the delivery schedule or price hereunder.
- 6. DELIVERY.** Time is of the essence in this contract, and if delivery of items or rendering of services is not completed by the time promised, the Buyer reserves the right without liability, in addition to its other rights and remedies, to terminate this contract by notice effective when received by Seller, as to stated items not yet shipped or services not yet rendered, and to purchase substitute items or services elsewhere and charge the Seller with any loss incurred. Any provisions herein for delivery of articles or the rendering of services by installments shall not be construed as making the obligations of Seller severable. Title to all products to be delivered hereunder shall remain in Seller until such products are delivered to Buyer at the Destination point specified in Purchase Order. All risks of loss or damage to product to be delivered by Seller hereunder shall be upon the Seller until title to such products passes to Buyer.
- 7. INSPECTION.** Buyer reserves the right to reject and refuse acceptance of items which are not in accordance with Buyer's instructions, specifications, drawings and data or the requirements of the order. All goods shall be received subject to Buyer's final inspection and acceptance at destination, but such inspection or acceptance shall not relieve Seller from compliance with the terms and conditions of this purchase order. Buyer will charge Seller for the cost of inspecting merchandise that is rejected.
- 8. WARRANTY.** Seller expressly warrants that all goods and services covered by this purchase order will be merchantable and free from defects in materials and workmanship and will conform to the specifications, drawings, samples and other descriptions furnished or specified by Buyer or agreed to in writing. Seller further warrants that all such goods and services which are supplied in accordance with Seller's specifications, drawings or samples, or which are listed in Seller's catalog or which are also manufactured for others by Seller, will be fit and serviceable for the ordinary purposes for which used or for the purposes specified. Payment for goods or services prior to final inspection shall not constitute acceptance thereof. Any goods not conforming to the foregoing may at Buyer's sole discretion and not to the exclusion of remedies otherwise available, be returned to Seller. If so returned, Seller shall bear all costs, including transportation both ways, labor, reloading and trucking. Any such goods shall not be replaced except on written instructions from Buyer.
- 9. PROPERTY FURNISHED TO SELLER BY BUYER.** Unless otherwise agreed in writing, all special dies, molds, patterns, jigs, fixtures, and any other property furnished to the Seller by the Buyer, or specifically paid for by the Buyer, for use in the performance of this contract, shall be and remain the property of the Buyer, shall be subject to removal upon the Buyer's instruction, shall be used only in filing orders from the Buyer, shall be held at the Seller's risk, and shall be kept insured by the Seller at the Seller's expense while in its custody or control in an amount equal to the replacement cost thereof, with loss payable to the Buyer. Copies of policies or certificates of such insurance will be furnished to Buyer on demand.
- 10. PATENTS, COPYRIGHTS, TRADEMARKS.** Unless the articles covered by this order are supplied pursuant to Buyer's specifications, Seller warrants that said articles do not infringe upon any foreign or domestic patent, trademark, or copyright and that Seller will, at its own expense indemnify and hold Buyer harmless from and defend Buyer and its affiliated corporations and their customers against any claim, demand, damages, or liability asserted against any of them on account of any claimed infringements for or on account of the manufacture, sale or use of any articles furnished hereunder, together with all costs in connection therewith, including attorney's fees.
- 11. PRICE.** Buyer shall not be billed at prices higher than stated on this Purchase Order unless authorized by Buyer. Seller represents that the price charged for the items or services covered by this order is the lowest price charged by the Seller to buyers of a class similar to Buyer under conditions similar to those specified in this order and that prices comply with applicable government regulations in effect at time of quotation, sale or delivery. Seller agrees that any price reduction made in merchandise covered by this order subsequent to the placement of this order will be applicable to this order.
- 12. DISCOUNTS.** The date to be used for discount calculations shall be the date when both the items and services ordered herein and a complete invoice therefore have been received by Buyer.
- 13. COMPLIANCE WITH LAWS AND REGULATIONS.** In accepting this purchase order Seller represents that it has and will continue during the performance of this purchase order to conform and comply in all respects with all applicable federal, state, provincial and local laws, orders and regulations, including, without limitations, those regarding (i) safety, (ii) content, (iii) flammability, (iv) weights, measures and sizes, (v) special use, care, handling instructions or warnings, (vi) processing, manufacturing, labeling, advertising, selling, shipping and invoicing, (vii) registration and declaration of responsibility, and (viii) occupational safety and health. Seller shall indemnify, hold harmless, and defend Buyer, at Seller's sole expense, against every claim, suit, proceeding, judgement, loss, damage, penalty, cost, fine or expense brought against or imposed upon Buyer for any violation or alleged violation of any applicable law by Seller or by any officer, agent, employee, or subcontractor of Seller.
- 14. RETENTION OF RIGHTS.** Buyer hereby retains all of its rights, title and interest in and to all information, data, designs, drawings and inventions furnished by Buyer to Seller for the purpose of assisting Seller in the performance of this order or in the submission of a bid by Seller for such performances, whether furnished prior to or after acceptance of this order. None of such information, data, designs, drawings, and inventions shall be disclosed by Seller, to others or used by Seller except in the performance of this order without the prior written consent of Buyer. Upon completion of performance hereunder, all such information, data, designs, drawings and inventions shall be promptly returned by Seller to Buyer. Seller acknowledges and agrees that any sales forecasts, quantity purchase estimates or similar projections received from Buyer are not purchase commitments of Buyer, but rather represent estimates for planning purposes only, and that the Buyer has no obligation to purchase or otherwise compensate Seller for any of Seller's finished products, or unfinished raw materials, not covered by a Purchase order.
- 16. WORK ON BUYER'S PREMISES.** If goods are to be fabricated, assembled or installed in whole or in part on Buyer's premises hereunder: 1) Seller shall keep such premises free and clear of all mechanic's liens arising in connection with work performed by Seller or Seller's subcontractor and shall execute or cause to be executed and submit with each invoice rendered such lien waivers and related forms as Buyer reasonably shall request; 2) Seller shall defend, indemnify, and hold harmless Buyer against any claims, demands, debts, obligations or liabilities resulting directly or indirectly from any death, bodily injury or property damage which occurs in connection with the work covered by this purchase order, provided, however, that this obligation to defend, indemnify and hold harmless shall not apply if such death, injury or damage is caused solely by the willful misconduct of Buyer; and 3) before commencing such work, Seller shall furnish Buyer certificates of insurance showing that Seller and any subcontractor of Seller carry adequate public liability insurance and workman's compensation coverage (or evidence of authority to self-insure).
- 17. FORCE MAJEURE.** Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by fire, flood, unusually severe weather, explosion, riot, war, sabotage, or other similar causes as long as: 1) such events are beyond the party's reasonable efforts to prevent, avoid or mitigate; 2) said party uses every reasonable effort to mitigate; and 3) prompt written notice of such delay or suspension is given by such affected party to the other. If Seller is delayed in performance of its obligations due to a force majeure event, upon Buyer's receipt of said notice, if necessary, the time for performing shall be extended for a period of time reasonably necessary to overcome the effect of such delay. If any such force majeure condition occurs, Seller shall give immediate notice to Buyer and Buyer may elect to (1) terminate the affected Purchase Order(s) or any part thereof, or (2) suspend the affected Purchase Order(s), or any part thereof, for the duration of the force majeure condition and resume performance under such Purchase Order(s) once the force majeure condition ceases.
- 18. TAXES.** Except as may be otherwise provided on the front of this Purchase Order, the purchase price includes all applicable sales, use, excise or any other provincial or federal taxes.
- 19. APPLICABLE LAW.** This purchase order is made and shall be interpreted, construed, governed and enforced with respect to any matter or dispute arising out of the purchase order in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to its conflict of laws principles. The Application of the United Nations Convention on Contracts for the International Sales of Goods is excluded.
- 20. JURISDICTION.** The parties irrevocably submit to the exclusive jurisdiction of the courts of the Province of Ontario.
- 21. ASSIGNMENT.** Neither a Purchase Order nor any right, duty or obligation thereunder is assignable by Seller without the prior written consent of Buyer, to be given or not at Buyer's sole discretion. Buyer may assign a Purchase Order or any right, duty or obligation thereunder to a subsidiary or affiliate upon notice to Seller. Any prohibited assignment is void.
- 22. MOST FAVORED CUSTOMER.** Seller by acceptance of this Purchase Order certifies that, to the best of its knowledge and belief, Seller's quotation relating to the Purchase Order was based on the best and most current pricing data available to Seller as of the date of the quotation, and that the rates specified herein are those which are normally quoted to Seller's "Best User" or "Most Favored Customer".
- 23. RETURN AUTHORIZATION.** Upon request by Buyer for a return authorization whether for credit, refund, repair or replacement of product and/or service, at the sole discretion of Buyer, Seller agrees that it will either issue such return authorization or provide Buyer with written substantiation for the refusal to issue the return authorization within twenty-four (24) hours of receipt of request to return. In the event Seller fails to provide the return authorization or the substantiation for the refusal, Buyer is hereby granted the right to offset the value of the product and/or services against Buyer's accounts payable to Seller.
- 24. INSURANCE.** Seller will purchase and maintain, with insurers licensed in Canada, Commercial General Liability insurance in the amount of \$2,000,000 CDN and provide Buyer with a Certificate of insurance providing Buyers as an additional named insured. Seller will notify Buyer Thirty (30) days in advance of any changes in coverage and/or notice of cancellation of such coverage.