

## TERMS AND CONDITIONS OF PURCHASE

1. **DEFINITIONS** "Goods" as used herein shall mean the goods, products, materials supplies, parts, assemblies, drawings, documents or services covered by this purchase order.  
"Production" and "delivery" as used herein shall include any services to be rendered under this purchase order.
2. **THE CONTRACT**
  - 2.1 **Additional Documents.** All specifications, drawings, technical data and documents expressly referred to in this purchase order are incorporated herein by reference. If such reference is to a portion only of such specifications, drawings, data or documents, then only the portions referenced shall be incorporated herein.
  - 2.2 **Complete Agreement.** This purchase order, including all items incorporated herein by reference, contains the final and entire contract between purchaser and Seller and no agreement or other understanding purporting to add to or modify the terms and conditions hereof shall be binding upon Purchaser unless agreed to by Purchaser in writing on or subsequent to the date of this purchase order.
  - 2.3 **Non-Assignment.** Seller shall not delegate to any other person the production of goods under this purchase order. Purchaser shall be entitled to assert against any assignee of Seller all rights, claims and defenses of any type (including, but not limited to, rights of set off, recoupment and counterclaim), which Purchaser could assert against Seller, whether acquired prior or subsequent to such assignment.
3. **PRICE TERMS.**
  - 3.1 **Terms.** The goods will be furnished at the price set forth on the Purchase Order. All prices shall be FOB destination (place of delivery). Seller warrants that the price for the goods is no less favorable than those currently extended to any other customer for the same or similar goods in similar quantities. Purchaser shall also receive the full benefit of all discounts, premiums and other favorable terms of payment customarily offered by Seller to its customers. In the event Seller reduces its price for the goods, Seller agrees to reduce the prices to Purchaser correspondingly. Seller warrants that the prices in this agreement shall be complete, and no additional charges of any type shall be added without Purchaser's express written consent, including but not limited to, shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing and crating.
  - 3.2 **Discounts.** All cash discount periods shall be computed from the date of receipt by Purchaser of a final invoice or receipt of the goods, whichever occurs later. Cash discounts will be based on full amount of invoice less freight charges and taxes if itemized separately on the invoice.
  - 3.3 **Extra Charges, Invoices and Payment.** No extra charges of any kind will be allowed unless specifically agreed to in writing by Purchaser. Price is to cover net weight, unless otherwise agreed. No invoices shall be issued nor payment made prior to delivery. All state and federal excise, sales and use taxes shall be stated separately on the invoices. All payments are subject to adjustment for storage
  - 3.4 **Transportation Charges.** Any transportation charges with respect to which Seller is entitled to receive reimbursement shall be added to the Seller's invoice as a separate item, with the receipted freight bill attached thereto. No parcel post insurance charges will be allowed unless authorized by Purchaser in writing. Any excess charges resulting from the use of unauthorized transportation will be disallowed or charged to Seller. No goods valued in excess of \$500 are to be shipped via Parcel Post. Seller shall not declare any value on goods shipped via United Parcel Service, Air Express, Air Freight or Parcel Post. Seller shall release rail or truck shipment at the lowest valuation permitted in governing tariff or classification.
  - 3.5 **Reduction in Rates, Duties, or Taxes.** Any reduction in applicable freight rates, customs duties, import taxes, excise taxes, and/or sales taxes from those in force on the date of this purchase order, whether separately stated on the face of the order or not, shall be paid to Purchaser or credited against the price of the goods.
- 3.6 **Duty Drawback rights.** This purchase order includes any and all related customs duty rights that are transferable from Seller to Purchaser. Seller shall inform Purchaser of the existence of any such rights and upon request supply such documents as may be required for Purchaser to obtain any such drawback.
4. **DELIVERY**
  - 4.1 **Transportation.** All goods shall be properly packed, marked, loaded and shipped as required by this order and the transporting carrier, and shipped in a manner, which will permit the lowest transportation rates to apply. Seller shall reimburse Purchaser for all expenses incurred due to improper packing, marking, loading or routing. Seller shall route shipments in accordance with Purchaser's instructions and shall offer all shipments to Purchaser's Transportation Operations unless otherwise instructed.
  - 4.2 **Risk of Loss.** Delivery shall not be complete until goods have been actually delivered to and accepted by Purchaser, notwithstanding any agreement to pay freight, express, parcel post or other transportation charges. The risk of loss or damage in transit shall be upon the Seller, except where shipment is by Purchaser's vehicle in which case the risk of loss or damage shall pass to Purchaser upon completion of loading.
  - 4.3 **Shipping Releases.** Seller shall not produce any of the goods covered by this purchase order, or procure any of the materials required in their production, or ship any of such goods to Purchaser, except to the extent authorized in written instructions furnished to Seller by Purchaser or as necessary to meet specific delivery dates provided in this purchase order. Purchaser shall have no responsibility for goods for which delivery dates or such written instructions have not been provided. Shipments in excess of those authorized may be returned to Seller and Seller shall pay Purchaser for all packing, handling, sorting, loading, and transportation expenses in connection with such shipments. Purchaser may from time to time change shipping schedules specified in this purchase order or contained in other written instructions or direct temporary suspension of such scheduled shipments.
  - 4.4 **Delays.** Seller shall in the event of a delay or threat of delay, due to any cause, in the production or delivery of goods hereunder, immediately notify Purchase and shall include with such notice all relevant information with respect to such delay or threatened delay. Seller shall be liable for any damages resulting from failure to make delivery within the time called for by this order or by any written instructions of Purchaser, except where 1) such delay in delivery shall be due to causes beyond the reasonable control of Seller, and 2) Seller notifies Purchaser as aforesaid. If Seller for any reason cannot comply with Purchaser's delivery schedule, Purchaser, in addition to any other rights or remedies available to it by law or under these terms and conditions, may terminate this purchase order or cancel any shipment there under without further liability to Seller.
5. **INSPECTION AND ACCEPTANCE**
  - 5.1 All goods shall be subject to inspection and test by the Purchaser and its customers to the extent practical at all times and places and in any event prior to acceptance by Purchaser.
  - 5.2 Payment shall not constitute final acceptance. Defective goods will be returned at Seller's risk and expense at full invoice price, plus transportation charges, if any, and no replacement of defective goods shall be made unless specified in writing by the Purchaser. Purchaser may reject and return any portion of any shipment of goods under this purchase order, which may be defective or fail to comply with applicable specifications, drawings, samples or descriptions without invalidating the remainder of the order.

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6. **CHANGES.** Changes may be made in drawings, specifications, descriptions, shipping instructions, quantities and/or delivery schedules only by the prior written notice or consent of Purchaser. Should any such change increase or decrease the cost of or the time required for production of goods under this purchase order, Seller shall immediately notify Purchaser, and Purchaser shall make an equitable adjustment in the purchase price or delivery schedule, or both.
7. **TERMINATION AT OPTION OF PURCHASER**
- 7.1 Purchaser may terminate production of goods under this purchase order, in whole or in part, at any time by mailing or delivering written notice of termination of offer.
- 7.2 After receipt of a notice of termination and unless otherwise directed by Purchaser, Seller shall:
- 7.2.1 Immediately terminate all production of goods under this purchase order.
- 7.2.2 Terminate all orders and subcontracts relating to the production of goods as terminated by the notice.
- 7.2.3 Settle all claims arising out of such termination of orders and subcontracts.
- 7.2.4 Transfer title and deliver to Purchaser i) all completed goods which conform to the requirements of this order and do not exceed the amount authorized for production by Purchaser, and ii) all reasonable quantities (but not in excess of amounts authorized by Purchaser) of goods in process and materials produced or acquired by Purchaser specifically for the production of the goods, provided such goods in process and materials are of a type and quality for producing goods which conform to the requirements of this purchase order and cannot be reasonably used by Seller in producing goods for itself or for its other customers.
- 7.2.5 Take all action necessary to protect property in which Purchaser has or may acquire an interest.
- 7.2.6 Submit to Purchase not later than three months from the effective date of termination (one month in the case of partial termination) its termination claim; provided, however, that in the event of failure of Seller to submit its termination claim within such period. Purchaser may determine, notwithstanding the provisions of sub-paragraph (7.3) hereof, on the basis of information available to it, the amount, if any, due Seller with respect to the termination, and such determinations shall be final.
- 7.3 Upon termination by Purchaser under this paragraph, Purchaser shall pay to Seller the following amounts without duplication:
- 7.3.1 The purchase order price for all goods which have been completed in accordance with this purchase order;
- 7.3.2 The actual costs incurred by Seller in accordance with this purchase order to the extent such costs are reasonable in amount and are properly allocable to the terminated portion of this purchase order, including the actual cost of goods in process and materials delivered to Purchaser in accordance with subparagraph (7.2) hereof, and including the actual cost of discharging liabilities which are so allocable or apportionable; and
- 7.3.3 The reasonable costs incurred by Seller in protecting property in which Purchase has or may acquire an interest Payments made under this subparagraph (7.3), exclusive of payments made under subdivision
- 7.4 This paragraph 7 shall not apply if Purchaser cancels this purchase order for the default of Seller.
8. **EXPRESS WARRANTIES.** With respect to the goods or services purchased under this agreement and all other goods or services purchased from Seller, Seller expressly warrants for the Warranty Period as follows: (a) the goods shall strictly conform to all specifications, drawings, instructions, advertisements, statements on containers or labels, descriptions and samples; (b) the goods shall be free from defects in workmanship and material and shall be new and of the highest quality; (c) Purchaser shall receive title to the goods that is free and clear of any liens, encumbrances and any actual or claimed patent, copyright or trademark infringement; (d) the goods shall be merchantable, safe and fit for the Purchaser's intended purposes, which purposes have been communicated to Seller; (e) the goods shall be adequately contained, packaged, marked and labeled; (f) all services performed by Seller shall be performed in a competent, workmanlike manner and in accordance with industry standards; (g) the goods shall be manufactured in compliance with all applicable federal, state and local laws, regulations or orders, and agency or association standards or other standards applicable to the manufacture, labeling, transporting, licensing, approval or certification, including by way of illustration and not by way of limitation, the Occupational Health and Safety Act, the Fair Labor Standards Act, and any law or order pertaining to discrimination. These warranties shall be in addition to all other warranties, express, implied or statutory. These warranties shall survive inspection, test, delivery, acceptance, use and payment by Purchaser and shall inure to the benefit of Purchaser, its successors, assigns, customers and the users of Purchaser's products. These warranties may not be limited or disclaimed by Seller. Purchaser's approval or Seller's design, material, process, drawing, specifications or the like shall not be construed to relieve Seller of the warranties set forth herein, nor shall a waiver by Purchaser of any drawing or specification request for one or more articles constitute a waiver of any such requirements for the remaining articles to be delivered hereunder unless so stated by Purchaser in writing. If Purchaser experiences any defect, failure or non-conformity during the Warranty Period, Purchaser shall have the right to take the following actions, at Purchaser's option: (1) retain the defective goods in whole or in part with an appropriate adjustment in the price for the goods; (2) require Seller to repair or replace the defective goods in whole or in part at Seller's sole expense, including all shipping, transportation and installation costs; (3) correct or replace the defective items with similar items and recover the total cost from Seller, including the cost of product recalls; and (4) exercise all other rights under the Uniform Commercial Code and any other applicable statutes.
9. **PURCHASER'S PROPERTY.** Unless otherwise agreed to in writing, all tools, equipment, documents, or other material of every description furnished to Seller by Purchaser or for which Seller has been reimbursed by Purchaser, including any replacements thereof and any materials affixed or attached thereto, shall be the personal property of Purchaser. Such property shall at all times be properly maintained by Seller, shall be deemed to be personally, shall be appropriately marked to establish Purchaser's ownership, shall not be commingled with the property of Seller or of any third party, shall not be moved from Seller's premises without Purchaser's prior written approval, and shall be held at Seller's risk and expense. Seller shall, upon Purchaser's written request, sign and file a financing Statement as "Consignee", in accordance with Section 9- 408 of the Uniform Commercial Code to secure title of such property in Purchaser. Such property shall be subject to removal at Purchaser's written request in which event Seller shall redeliver such property in the same condition as originally received by Seller, reasonable wear and tear excepted; all at Seller's expense. Purchaser shall have the right to enter upon Seller's premises at all reasonable times to inspect such property and Seller records with respect thereto. Seller agrees not to use any designs, tools, patterns, drawings, materials, or other information or equipment furnished by Purchaser in the manufacture or design of any goods for any other customer and further agrees not to use or disclose to any third party and confidential or proprietary information of Purchaser, acquired by Seller in the course of producing goods under this purchase order.
10. **PATENTS.** Seller agrees to indemnify and hold harmless Purchaser and its customers against all liability, loss, and

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- expense (including attorneys' fees) by reason of any claim, action or litigation arising out of any alleged or actual, direct or contributory infringement of patent arising from the purchase, use, or sale of the goods. In case the purchase, use, or sale of said goods, or any part thereof, is held to constitute infringement or is enjoined, Seller shall, at its own expense, procure for Purchaser and its customers the right to continue the purchase, use and sale of such goods; or, with the approval of Purchaser, modify such goods so they become non-infringing, or remove such goods and refund the purchase price and the transportation and installation costs thereof.
11. **HARMFUL INGREDIENTS OR DEFECTIVE DESIGN.** Whenever Seller becomes aware that any ingredient or component of the goods covered by this purchase order are, or may become, harmful to persons or property, or that the design or construction of the goods is defective in any manner which is or may become harmful to persons or property, Seller shall immediately give notice thereof, including all relevant information with respect thereto, to Purchaser.
  12. **LICENSING OF INVENTIONS.** If this order involves experimental, development or research activities, including engineering related thereto, all information developed in the course thereof shall be owned by Purchaser and be deemed confidential and proprietary property of Purchaser, whether patented or not, and Seller shall cooperate (and cause his employees to cooperate) in executing any documents and taking any other actions necessary or convenient to patent, or otherwise perfect or protect for the benefit of Purchaser any inventions conceived, developed or reduced to practice in performance of this purchase order. If the order does not involve such experimental, developmental or research activities, but the goods covered by it are to be produced in accordance with drawings or specifications furnished by Purchaser, Seller hereby grants to Purchaser an irrevocable, non-exclusive and royalty-free license to make, have made, use and sell and improvement in the goods which is conceived, developed or reduced to practice by Seller in the production of the goods under this purchase order.
  13. **ADVERTISING.** Seller shall not disclose that Purchase has contracted with Seller without Purchaser's prior written consent.
  14. **SET OFF.** Purchaser shall be entitled at all times to set off any amount owing at any time from Seller, or any affiliated company of Seller, to Purchase, or any of its affiliated companies, against any amount payable at any time by Purchaser in connection with this purchase order. By 'affiliated company' is meant any corporation, firm, or association who controls, is controlled by, or is under common control with Seller or Purchaser, as the case may be.
  15. **COMPLIANCE WITH LAWS.** Seller shall comply with all laws, regulations, ordinances, or other governmental regulations now or hereafter applicable to the goods or the production thereof.
  16. **FAIR LABOR STANDARDS ACT.** Seller will comply with the Fair Labor Standards Act of 1938, as amended. All invoices shall contain the following assurance: Seller represents that it has complied with the Fair Labor Standards Act of 1938, as amended, in producing the supplies or performing the services covered by this invoice.
  17. **EQUAL OPPORTUNITY CLAUSE.** The contract provisions of Paragraphs (1) through (7) of Section 202 of Executive Order 11246 issued in 1965, as amended by Executive Order 11375 of 1967, an all rules and regulations pursuant thereto are part of, and included in the purchase order.
  18. **EMPLOYMENT OF THE HANDICAPPED CLAUSE.** The provisions of the affirmative action clause entitled "Employment of the Handicapped" contained in the Regulations concerning Affirmative Action Obligations of Contractors and Subcontractors, 41 CFR 60-741.3, issued pursuant to the Vocational Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974 is a part of, and included in the purchase order.
  19. **LISTING OF EMPLOYMENT OPENINGS FOR VETERANS CLAUSE.** The contract clause contained in the Regulations providing for Veteran's Employment Emphasis Under Federal Contracts, 41 CFR 60-250.4, is a part of, and included in this purchase order.
  20. **VETERANS.** Seller shall comply with the provisions of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Public Law 93- 508, as it amends 38 USC 2012 the Vietnam Era Readjustment Assistance Act of 1972.
  21. **AGE DISCRIMINATION IN EMPLOYMENT ACT.** Seller shall comply with the provisions of the Age Discrimination in Employment Act of 1967 as amended in 1978, and all rules and regulations issued pursuant thereto.
  22. **INDEMNIFICATION AND INSURANCE.** (A) To the fullest extent permitted by law, Seller agrees to indemnify, save harmless and defend Purchaser and its affiliated companies, their directors, officers, employees, agents and customers ("Indemnitees") from and against any loss, liabilities, costs, expenses, suits, actions, claims and all other obligations and proceedings, including without limitation all judgments rendered against, and all fines and penalties imposed upon, Indemnitees and all attorney's fees and any other cost of litigation ("Liabilities") arising out of a breach hereof, warranty claims, product recall claims, product liability claims, injuries to persons, including death, or damage to property caused by Seller, its employees, agents, subcontractors, or in any way attributable to the performance of Seller, including without limitation, breach of contract, breach of warranty or product liability; provided, however, that Seller's obligation to indemnify Purchaser shall not apply to any liabilities solely arising from Purchaser's negligence. Seller agrees to indemnify, save harmless and defend Indemnitees from and against all Liabilities arising out of actual or alleged infringement, including infringement of any patent, trademark or copyright relative to the goods. (B) Seller shall maintain insurance coverage in amounts not less than the following: (a) Worker's Compensation – Statutory Limits for the state or states in which this agreement is to be performed (or evidence of authority to self-insure); (b) Employer's Liability - \$250,000; (c) Comprehensive General Liability (including Products/Completed Operations and Blanket Contractual Liability) - \$1,000,000 per person, \$1,000,000 per occurrence (personal injury) and \$1,000,000 per occurrence (property damage). At Purchaser's request, Seller shall furnish certificates of insurance setting forth the amounts of coverage, policy numbers and dates of expiration for insurance maintained by Seller. Such certificates shall provide that Purchaser will receive 30 days prior written notification from the insurer of any termination or reduction in the amount or scope of coverages. Seller's purchase of insurance coverage and the furnishing of certificates of insurance shall not release Seller of its obligations or liabilities under this agreement. In the event of Seller's breach of this provision, Purchaser shall have the right to cancel the undelivered portion of any goods or services covered by this agreement and shall not be required to make further payments except for conforming goods delivered or services rendered prior to cancellation.
  23. **LIMITATION OF PURCHASER'S LIABILITY.** In no event shall Purchaser be liable to Seller for anticipated profits or for incidental or consequential damages. Purchaser's liability for a claim of any kind or for any loss or damage arising out of or in connection with or resulting from this agreement, or from any performance or breach, shall in no case exceed the price allocable to the goods or services or unit which directly gives rise to the claim.
  24. **REMEDIES.** Purchaser's rights and remedies shall be cumulative and in addition to any other rights or remedies provided by law or equity. A waiver by Purchaser of any right or remedy shall not affect any rights or remedies subsequently arising under the same or similar clause. Any attempt by Seller to limit Purchaser's warranties, remedies or the amount and

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types of damages that Purchaser may seek shall be null and void.

25. **TOOLS, BAILED PROPERTY.** All supplies, materials, tools, jigs, dies, gauges, fixtures, molds, patterns, equipment, ancillary products and other items furnished by Purchaser ("Tools"), to Seller to perform this agreement, or for which Seller has been reimbursed by Purchaser, shall be and remain the property of Purchaser. Seller shall bear the risk of loss of and damage to Purchaser's property. Purchaser's property (a) shall at all times be properly housed and maintained by Seller, (b) shall not be used by Seller for any purpose other than the performance of this agreement, (c) shall be deemed to be personal property, not a fixture, (d) shall be conspicuously identified as property of Purchaser, with specific reference to Purchaser's indemnity and relevant part numbers, (e) shall not be commingled with the property of Seller or with that of a third party, and (f) shall not be moved from Seller's premises without Purchaser's prior written approval. Upon the request of Purchaser, such property immediately shall be released to Purchaser or delivered to Purchaser by Seller, either (a) F.O.B. transport equipment at Seller's plant, properly packed and marked in accordance with the requirements of the carrier selected by Purchaser to transport such property, or (b) to any location designated by Purchaser, in which event Purchaser shall pay Seller the reasonable cost of delivering such property to such location. Purchaser shall have the right to enter onto Seller's premises at all reasonable times to inspect such property and Seller's records with respect to the property. Unless otherwise agreed by Purchaser, Seller at its own expense shall furnish, keep in good condition, and replace when necessary all Tools. Seller shall insure the Tools with full fire and extended coverage insurance for replacement value. Purchaser does not guarantee the accuracy of any tooling or dies or the availability or suitability of any supplies or material furnished by it. Seller agrees carefully to check and approve all tooling, dies or materials supplied by Purchaser prior to using it. Seller shall assume all risk of death or injury to persons or damage to property arising from use of tools, dies or materials supplied by Purchaser.

26. **INFORMATION AND DATA.**

- A. Seller will furnish to Purchaser, or another party designated by Purchaser, without restrictions on use or disclosure, all information and data Seller acquires or develops in the course of Seller's activities under this agreement. At Purchaser's request, Seller also will discuss with Purchaser or another party designated by Purchaser, without restrictions on use or disclosure, any potential design, quality or manufacturing problems with goods Seller worked on or produced pursuant to this agreement.
- B. At Purchaser's request, Seller will furnish to Purchaser all other information and data of Seller which Purchaser deems necessary to understand the operation and to maintain the goods delivered under this agreement, and to understand and apply the information and data of subsection A hereof, with no restrictions on use other than Seller's patent rights.
- C. With respect to inventions which Seller conceives or first reduces to practice in the course of Seller's activities under this agreement, Seller grants to Purchaser a permanent, paid-up, non-exclusive, worldwide license, with a right to sublicense others, to make, have made, use, have used said inventions and patents on such inventions.
- D. Seller grants to Purchaser a permanent, paid-up, nonexclusive, worldwide license, including a license to any operating software incorporated into the goods sold hereunder with a right to grant a sublicense to any of its affiliated companies, to make, have made, use, have used and sell the goods sold hereunder or derivatives thereof under any other patents now or hereafter owned or controlled by Seller which are deemed necessary by

- Purchaser to exercise the license of subsection C in the manufacture, use or sale of products manufactured by or for Purchaser or any of its affiliated companies.
- E. Seller grants to Purchaser, an agrees to grant to any affiliated company designated by Purchaser, a nonexclusive license, on reasonable terms and conditions, to make, have made, use, have used and sell under any other patents now or hereafter owned or controlled by Seller which cover any application of the technology embodied in the information or data Seller acquires or develops in the course of Seller's activities under this agreement.
- F. Unless otherwise indicated in writing by Purchaser, Seller will use reasonable care to prevent disclosing to others and will use only for the benefit of Purchaser, (i) the technical information and data furnished by Purchaser or developed or acquired by Seller in its work under this agreement, prior development agreement or early sourcing agreement for goods related to or using such technical information or data, and (ii) information relating to any portion of Purchaser's business that Seller may acquire in the course of Seller's activities under this agreement, prior development agreement or early sourcing agreement.
- G. All technical information and data disclosed heretofore and hereafter by Seller to Purchaser in connection with this agreement are disclosed on a non-confidential basis.
27. **GOVERNING LAW; DISPUTES.** This agreement shall be construed and interpreted in accordance with the laws of the State of Michigan. All disputes involving this agreement shall be adjudicated exclusively in the Circuit Court for the County of Washtenaw, State of Michigan, or the U.S. District Court for the Eastern District of Michigan.