

TERMS AND CONDITIONS

1. **ACCEPTANCE OF ORDER, PRICE AND TERM CHANGES.** This Agreement constitutes an offer to purchase by the Buyer and is subject to final approval and acceptance by Seller's Home Office. All prices and terms cited on the Order Acknowledgement based on costs and conditions existing on the date listed in the Order Acknowledgement (the "Agreement Date"), and are subject to change by the Seller prior final acceptance by Seller's Home Office. Amendments or adjustments to price or terms of this Agreement shall be communicated, and are not binding unless approved, by Seller in writing.
2. **CORRECTION OF ERRORS & OMISSIONS.** Typographical errors contained herein are subject to correction by Seller at any time. Conditions not specifically stated herein shall be governed by established trade customs.
3. **PAYMENT.** Unless specific credit terms are provided for on the Order Acknowledgement and specifically approved, in writing, by Seller's Home Office, payment shall be **NET THIRTY (30) DAYS CASH.** DELINQUENT ACCOUNTS SHALL BE SUBJECT TO A LATE CHARGE OF ONE AND ONE-HALF PERCENT (1.5%) PER MONTH.
4. **CUSTOM ITEMS.** In the event that this order is for Product that is customized, the Seller shall release any customized tools or dies (the "Equipment") to the Buyer upon request only after: completion of the manufacturing process; receipt of payment in full; and receipt of any additional charges provided for herein or subsequently agreed-to by the parties. Custom items are subject to variations in quantity of PLUS or MINUS TEN PERCENT (10%), unless otherwise agreed prior to acceptance of order by Seller.
5. **DELIVERY.** Delivery and satisfaction of Seller's obligations related thereto shall be "**FOB SELLER'S PLANT**". A quoted delivery date is a best estimate and, while seller will utilize its best efforts to achieve the estimated time and quantity, Seller shall have no liability whatsoever to Buyer for any alleged damages caused by late or partial delivery.
6. **WARRANTY.** (A) PRODUCTS MANUFACTURED OR SUPPLIED BY SELLER ARE WARRANTED TO BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP, IN ACCORDANCE WITH THE COMMERCIAL TOLERANCES SET OUT AND AGREED TO BY THE PARTIES IN THIS AGREEMENT. (B) SELLER'S LIABILITY HEREUNDER IS LIMITED EXCLUSIVELY TO THE PURCHASE PRICE OF ANY PIECE OR PRODUCED PART IN AN ORDER THAT IS NOT IN COMPLIANCE ("NON-COMPLIANT PIECE") PROVEN TO BE DEFECTIVE, OR, AT SELLER'S OPTION, FOR REPLACEMENT OF THE NON-COMPLIANT PIECE. ANY PIECE OR PRODUCED PART CLAIMED TO BE DEFECTIVE MUST BE RETURNED TO THE SELLER WITHIN FIFTEEN (15) CALENDAR DAYS OF DELIVERY, PREPAID BY BUYER, FOR INSPECTION BY SELLER. SELLER SHALL HAVE THIRTY (30) CALENDAR DAYS FROM RECEIPT OF ANY PIECE OR PRODUCED PARTY CLAIMED TO BE DEFECTIVE TO INSPECT AND ADVISE BUYER, IN WRITING, OF SELLER'S DETERMINATION AND, IF FOUND TO BE A NON-COMPLIANT PIECE, THE PROFFERED REMEDY. (C) SELLER DOES NOT WARRANT ANY SPECIFIC DELIVERY TIME OR QUANTITY OF UNITS TO BE DELIVERED WITHIN A SPECIFIED TIME. TO THE EXTENT A DELIVERY TIME AND/OR QUANTITY IS ESTIMATED IN THIS AGREEMENT, SELLER'S OBLIGATION IS TO UTILIZE ITS BEST EFFORTS TO ACHIEVE THE ESTIMATED TIME AND QUANTITY. (D) SELLER DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTY OUTSIDE OF THIS SECTION.
7. **CERTIFICATIONS.** Seller's standard "Certification of Compliance" will be furnished, upon written request from Buyer, at no additional cost when requested at the time of order. Certified test reports or certificates of analysis are available on special-order basis and must be requested prior to the production. Cost for certification will be quoted in addition to the manufacturing cost for the goods ordered.
8. **RESPONSIBILITIES OF BUYER.** Buyer shall be responsible for paying all local, state and federal sales, use, property, and excise taxes and all other regulatory fees and charges imposed by the applicable governing authority in connection with the sale and use of the goods. Buyer shall inspect all goods upon receipt. Within ten (10) business days of receipt, Buyer shall test all materials and components for the intended application to assure satisfactory performance under actual operating conditions. All claims for shortages, shipments received in damaged condition, or losses in transit must be made directly to the shipper within fifteen (15) calendar days of receipt.
9. **CHANGE ORDERS; RESCHEDULING.** All Change Orders and rescheduling shall be subject to charges sufficient to compensate Seller for all costs or charges for work in process, raw materials, additional set-up costs, and special handling either incurred, or non-cancelable, by Seller.
10. **PATENT, COPYRIGHT & INTELLECTUAL PROPERTY.** Seller bears no responsibility with respect to verifying or securing rights to use, any patent, copyright, or intellectual property with respect to the Products ordered by Buyer. Buyer warrants and certifies to Seller that, to the extent any specifications or aspect of the Products may be covered under a patent, copyright, or may be classified as the intellectual property of a third-party, that it has secured all requisite rights to utilize, develop, market, and/or have Seller produce the Products in accordance with those specifications. Buyer assumes all liability for patent and copyright infringement when goods are made to Buyer's specification.
11. **INDEMNITY.** Buyer agrees to indemnify and hold Seller, its agents, employees, representatives, successors and assigns, harmless against loss, claim, liabilities, costs and expenses, including reasonable attorneys' fees, arising out of, in connection with, or resulting from the use, operation, or condition of the Products sold or with respect to any claims that the Products infringe or violate any third-party intellectual property including patents and copyrights.. Buyer will provide Seller with prompt notice of any claim, allegation, or proceeding involving or related to the subject matter of this Agreement or this indemnification and with any documents, including pleadings, related to such proceedings. Buyer shall indemnify and reimburse any and all: reasonable Attorneys fees; fines; or settlement amounts paid by Seller related to any claims that the Products, in whole or in part, violate a third-party's intellectual property including patent and/or copyright.
12. **FORCE MAJEURE.** Seller's failure to perform, or delays in performance, shall be excused hereunder where such failure and/or delay is attributable, in whole or part, to: acts of God, including but not limited to flood, fire, earthquake, hurricane, tornado, wind storm, snow or ice storm, localized or widespread epidemics and/or pandemics; acts of any current or former governmental official or agency including, but not limited to, condemnation, changes to laws or regulations, embargoes and/or trade conflicts; public comment or statements which would harm Seller, Seller's business or Seller's reputation if performance is completed; any labor action or dispute including, but not limited to work stoppages, strikes, walk-outs; Civil, National, and International unrest including, but not limited to war, hostilities, riot, rebellion, protest, act of terrorism; Material shortages and/or unforeseen cost increases; Transportation Delays; or other factors impacting Seller's performance beyond its direct control.
13. **JURISDICTION.** Any dispute arising out of the subject matter of this Agreement shall be subject to the laws of the State of New Hampshire, without regard for its conflict of laws provisions, and, unless otherwise provided-for in this Agreement, be brought before the court of appropriate jurisdiction in Rockingham County, New Hampshire.
14. **COSTS.** In the event of a breach of this agreement the prevailing party shall be entitled to reasonable attorney fees and costs.
15. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of this Agreement.
16. **SEVERABILITY.** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the court or other tribunal making such determination is authorized and instructed to modify this Agreement so as to effect the original intent of the parties as closely as possible so that the transactions and agreements contemplated herein are consummated as originally contemplated to the fullest extent possible.